

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WISCONSIN

EDGEWOOD HIGH SCHOOL OF THE SACRED
HEART, INC.,

Plaintiff,

Case No.

vs.

3:21-cv-00118-wmc

CITY OF MADISON, WISCONSIN, et
al.,

Defendants.

DEPOSITION OF:
CORPORATE REPRESENTATIVE OF POTTER LAWSON, INC.
DOUG HURSH

TAKEN AT: GODFREY & KAHN, S.C.

LOCATED AT: One East Main Street, Suite 500
Madison, Wisconsin
September 2, 2022

9:47 a.m. to 2:56 p.m.

REPORTED BY: VICKY L. ST. GEORGE, RMR.

JOB NO. 5414309

1	A P P E A R A N C E S		Page 2
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1	P R E V I O U S L Y M A R K E D E X H I B I T S		Page 3
2	NUMBER	DESCRIPTION	PAGE
3	Exhibit 13	Zoning Ordinance for the Campus	86
4		Institutional District	
5	Exhibit 45	Email Dated 11-2-2018	65
6	Exhibit 52	Master Plan	20
7	Exhibit 54	Email Dated 12-5-2013, EHS1825	62
8	Exhibit 153	Email String Dated 10-20-2014,	89
9		Potter11523	
10	Exhibit 159	Table of Contents Dated 6-13-2013	29
11	Exhibit 160	Table of Contents Dated October 17,	34
12		2013	
13	Exhibit 161	Table of Contents Dated November 12,	36
14		2013	
15	Exhibit 162	Table of Contents Dated November 19,	37
16		2013	
17	Exhibit 163	Email Dated 2-19-2013, Potter11717	54
18	Exhibit 164	Email String Dated 2-19-2013,	60
19		Potte11725	
20	Exhibit 165	Letter Dated January 2, 2019	66
21	Exhibit 166	Letter Dated January 4, 2019	68
22	Exhibit 167	Letter Dated 1-6-2020, Potter8654	70
23			
24			
25			

1	N E W L Y M A R K E D E X H I B I T S		Page 4
2	NUMBER	DESCRIPTION	PAGE
3	Exhibit 170	Subpoena	5
4	Exhibit 171	Declaration of Michael Elliott	43
5	Exhibit 172	Declaration of Judge Schemmel Dated	48
6		June 8 of 2022	
7	Exhibit 173	Email Dated 10-16-2014, Potter11270	94
8	Exhibit 174	Email Dated October 20th, 2014,	95
9		Potter11511	
10	Exhibit 175	Email String Dated 9-16-2011,	99
11		Potter13623	
12	Exhibit 176	Email Dated 1-15-2014, Potter10469	107
13	Exhibit 177	Email Dated 1-15-2014, Potter10471	107
14	Exhibit 178	Email Dated 9-9-2013, Potter12553	113
15	Exhibit 179	Email Dated 11-14-2013, Potter08777	129
16			
17			
18	R E Q U E S T S		
19	(No requests made.)		
20			
21			
22	(Original exhibits attached to original transcript.)		
23	(Original transcript was delivered to Attorney Ingrisano.)		
24			
25			

1	T R A N S C R I P T O F P R O C E E D I N G S		Page 5
2	CORPORATE REPRESENTATIVE OF POTTER LAWSON,		
3	INC., DOUG HURSH called as a witness herein, after		
4	having been first duly sworn on oath, was examined		
5	and testified as follows:		
6	E X A M I N A T I O N		
7	BY MR. INGRISANO:		
8	Q.	Good morning, Mr. Hursh. Can you please state your	
9		name and spell it for the record?	
10	A.	Doug Hursh. D O U G, last name H U R S H.	
11	Q.	Okay. And you don't have counsel with you here	
12		today; is that right?	
13	A.	Right.	
14		(Exhibit 170 marked.)	
15	BY MR. INGRISANO:		
16	Q.	Handing you what's been marked as Exhibit 170. Do	
17		you recognize that, sir, as a subpoena served on	
18		Potter Lawson for testimony today?	
19	A.	Yes.	
20	Q.	And that's a corporate representative deposition.	
21		It's my understanding today that you're here to	
22		testify on behalf of Potter Lawson; is that correct?	
23	A.	Yes.	
24	Q.	Have you ever had your deposition taken before?	
25	A.	No.	

<p style="text-align: right;">Page 6</p> <p>1 Q. So let's go over just a couple quick ground rules, 2 try to make this go as smoothly and clearly as 3 possible. So the court reporter off to your left is 4 recording everything that we say on her stenographic 5 machine. What that means is she doesn't do well with 6 nods of the heads, shakes of the heads, ah-hahs or 7 uh-uhs. 8 A. Okay. 9 Q. So if you can remember to answer verbally to the 10 extent you can, that would be great. And I may ask 11 you at times to repeat an answer if you did an 12 ah-hah, and it's not meant to be rude, it's just 13 meant to make a clear record, okay? 14 A. Yes. 15 Q. At the same time she can't record two people talking 16 at once or it's very difficult for her. And so to 17 the extent that you can let me finish my question 18 before you begin your response, I'll do the same, try 19 to let you finish your response before I begin my 20 next question, okay? 21 A. Okay. 22 Q. There may come a time in which attorneys for the City 23 decide they want to object to a question that I've 24 asked. To the extent that you're in the middle of 25 your answer or haven't started your answer yet, if</p>	<p style="text-align: right;">Page 8</p> <p>1 THE WITNESS: Okay. 2 BY MR. INGRISANO: 3 Q. Are there any of those topics today that you don't 4 feel prepared to talk about? 5 A. No. 6 Q. Okay. Is there anyone else at Potter Lawson who you 7 think would be in a better position than you to talk 8 about any of those topics? 9 A. Not at Potter Lawson. 10 Q. Okay. Did you do anything today to prepare for your 11 deposition? Did you review any materials, talk to 12 anyone? 13 A. I got out the master plan and I was going to look at 14 it because I thought I was coming here at 1:00, so I 15 have not. 16 Q. That's okay. We will look at it there. 17 Sir, can you give me your date of birth? 18 A. May 10th, 1962. 19 Q. And what's your current residential address? 20 A. 6369 Briarcliff Lane in Middleton, Wisconsin 53562. 21 Q. And Potter Lawson, what's its business address? 22 A. It is 749 University Row, Suite 300, Madison, 23 Wisconsin. 24 Q. What's your position at Potter Lawson? 25 A. I am principal, shareholder and director of design.</p>
<p style="text-align: right;">Page 7</p> <p>1 you can let them get their objection on the record 2 and then do your best to answer that question, okay? 3 A. Okay. Sure. 4 Q. All right. If there comes a time today when you 5 don't understand a question that I ask, I don't 6 pretend to ask perfect questions and I'm certainly 7 not an architect, so there are going to be some 8 things that I may not understand. So if that 9 happens, just ask me to repeat my question, tell me 10 there is something wrong with my question. I'll do 11 my best to rephrase it so that you can understand it. 12 A. Okay. 13 Q. This is not a marathon today, so to the extent that 14 you need to take a break to use the restroom, get a 15 drink, whatever, just let me know and we'll do our 16 best to accommodate that as soon as we can, okay? 17 A. Sure. 18 Q. All right. Looking at Exhibit A to the last page of 19 this Exhibit 170, there are a series of topics 20 identified for the Potter Lawson deposition. Have 21 you reviewed that before? 22 A. No. 23 Q. Okay. Let me ask you to just read to yourself 24 numbers 1 through 6. 25 (Witness peruses document.)</p>	<p style="text-align: right;">Page 9</p> <p>1 Q. What's it mean to be a principal or shareholder of 2 Potter Lawson? 3 A. I own stock in the company and I lead teams on 4 projects. 5 Q. As a director of design, what are your roles and 6 responsibilities? 7 A. I guess I direct the design within the office and 8 mentor younger architects and designers and review 9 projects as they go through the design process. 10 Q. And how long have you been the director of design at 11 Potter Lawson? 12 A. Oh, I don't recall. I have worked there for 33 years 13 and maybe I've been the director for 12 years. 14 Q. So approximately 2010 ish you would have been the 15 director; is that right? 16 A. I don't know for sure. 17 Q. Okay. 18 A. That could be right. 19 Q. Do you recall what your title was at Potter Lawson in 20 2013 and 2014? 21 A. It would be the same. 22 Q. Okay. Now, when we talk about designs, you mentioned 23 the word design, you mentioned the word architects 24 and projects. What is Potter Lawson in the business 25 of? What do they do?</p>

<p style="text-align: right;">Page 10</p> <p>1 A. We are architects, interior designers. We are in the 2 business of providing architectural services that 3 include master planning, interior design, 4 architectural design, feasibility studies in 5 relationship to architectural projects, buildings, 6 yeah. I think that describes it. 7 Q. Sure. You mentioned master planning. What's 8 involved in master planning generally? What is 9 master planning? 10 A. Master planning is -- it's different for different 11 types of projects. Like maybe for a corporate 12 project it might just be looking at future expansion 13 capabilities on a site, you know, for future 14 buildings. For campuses it's looking at, you know, 15 the existing buildings, understanding what their 16 future changes might be in the build environment for 17 the campus, what type of facilities will they need in 18 the future, and they're used basically to guide 19 future development and to be able to communicate with 20 any stakeholders involved like surrounding property 21 owners, the city, disparate groups within the campus 22 so everybody knows kind of the plan for the future. 23 Q. Okay. Can you give me a summary of your educational 24 history starting in high school? 25 A. I went to high school in Orlando, Florida and then I</p>	<p style="text-align: right;">Page 12</p> <p>1 license with the State of Wisconsin to practice 2 architecture. 3 Q. Can you, speaking now for Potter Lawson, can you give 4 me an understanding of Potter Lawson's working 5 history with the Madison Edgewood Campus? 6 A. Yes. 7 MR. JEAN-LOUIS: Object to form. 8 THE WITNESS: What's that? 9 MR. JEAN-LOUIS: Object. 10 BY MR. INGRISANO: 11 Q. Please answer. 12 A. Just answer? Okay. Let's see. So in I think in the 13 '90s, maybe 1994, '5, '6, somewhere around there, we 14 started to get involved with the campus, mostly with 15 the college as a part of the campus. At the time 16 they had dirt parking lots and we wanted to -- they 17 wanted to expand to get better parking facilities at 18 some buildings. So there was a master plan that was 19 done I think in 1996. I'm not sure that it was 100 20 percent approved by the City, but there was a master 21 plan done, there was a different zoning and 22 regulations than we have now for master planning and 23 zoning. But there was a master plan on record at 24 that time in 1996, and there were some agreements 25 made with the campus entities and the community.</p>
<p style="text-align: right;">Page 11</p> <p>1 went to -- I have two years of college for -- I got a 2 bachelors degree basically liberal arts, and then I 3 have four years of architectural education at the 4 University of Florida. 5 Q. And you mentioned you've been at Potter Lawson for 33 6 years? 7 A. Yes. 8 Q. Was that your first job after architecture school? 9 A. No. 10 Q. Where were you after architecture school? 11 A. During architecture school I worked for a residential 12 architect in Gainesville. In summers I worked for an 13 architect in Orlando as an intern. After that I 14 moved -- after I graduated and moved to Chicago, I 15 worked for two years in an architecture firm in 16 downtown Chicago. Then I worked for a year at Knothe 17 Bruce doing mostly multi-family work, and then from 18 then on I've been at Potter Lawson. 19 Q. Again, showing my ignorance of the architecture 20 field, what degrees, certificates, credentials do you 21 have as an architect? 22 A. So I have a bachelors degree in architecture and then 23 I have -- I'm a registered architect. You have to 24 take an exam. And I say I've been registered for 25 approximately 30 years in good standing and I have a</p>	<p style="text-align: right;">Page 13</p> <p>1 I think after that we worked with mostly 2 the college on the campus to provide architectural 3 projects. We did the Predolin Humanity Center which 4 was an addition, we did the Stream which is a visual 5 theater arts building, we did Mazzuchelli Hall which 6 is a science facility, we then did a residents hall 7 on campus, Dominican Hall. So several buildings. 8 Probably the most recent project we did on 9 the campus was for the high school was the performing 10 arts center which was the addition in the front of 11 the high school there. 12 Q. Okay. So you mentioned the campus entities. 13 A. Um-hum. 14 Q. Is that -- when you think of the campus entities, 15 what entities are you referring to? 16 A. It's the college, the high school and the campus 17 school. Sort of three separate entities. And I 18 didn't mention, I think we all know, we worked on the 19 master plan then with the rezoning in whenever that 20 was, 2011 through 2014. 21 Q. So to the best of your recollection Potter Lawson's 22 working relationship with one or more of the Edgewood 23 entities would have begun approximately in the mid 24 '90s? 25 A. Yes.</p>

<p style="text-align: right;">Page 14</p> <p>1 Q. During that period of time would you characterize 2 yourself as the principal contact at Potter Lawson 3 for the Edgewood entities? 4 A. Not in the '90s, no. 5 Q. Okay. Who would that have been? 6 A. Mary Lawson. 7 Q. Was there a time when you took over principal 8 responsibility for the Edgewood Campus? 9 A. Yes. 10 Q. And when was that? 11 A. I'm not sure. So I did not work on the 1994, '5, '6 12 whatever master plan. I was involved in some of the 13 projects that were built on campus during that time. 14 When Mary retired, I'm not sure what day that was but 15 it may have been late 2000s, like 2008, 2006 maybe, 16 in that range. 17 Q. Okay. When you -- when -- so beginning, let's just 18 talk about the kind of that 2000 -- after -- let's 19 talk about the period of time after Mary Lawson 20 retires, and it's fair to say you take on principal 21 responsibility for Edgewood? 22 A. Yes. 23 MR. JEAN-LOUIS: Object to the form. 24 BY MR. INGRISANO: 25 Q. Were you retained, was Potter Lawson retained at that</p>	<p style="text-align: right;">Page 16</p> <p>1 and probably was the main contact. 2 Q. Okay. As a principal and shareholder at Potter 3 Lawson, as the -- as kind of the person who was the 4 principal contact for the campus generally after Mary 5 Lawson retired, did you have any sort of building or 6 supervisory responsibility on projects at that time? 7 MR. JEAN-LOUIS: Object to the form. 8 BY MR. INGRISANO: 9 Q. For example, like you mentioned Jim Moravec working 10 on that project for Edgewood. 11 A. Yes. 12 Q. Were you supervising Mr. Moravec on that project? 13 A. No, not really, no. 14 Q. Okay. One of the projects you mentioned was -- let 15 me ask you this. 16 Have you or Potter Lawson ever been 17 retained by the Edgewood Campus School? 18 MR. JEAN-LOUIS: Object to the form. 19 THE WITNESS: No. 20 BY MR. INGRISANO: 21 Q. Was Potter Lawson involved with the Edgewood Campus 22 or work with the Edgewood Campus with respect to the 23 enactment of the campus institutional district zoning 24 ordinance? 25 MR. JEAN-LOUIS: Object to form.</p>
<p style="text-align: right;">Page 15</p> <p>1 time in going forward on kind of a project-by-project 2 basis? 3 A. Yes. 4 Q. And so who -- so for buildings on the college campus, 5 who would have retained you? 6 A. The college. 7 Q. What projects, if any, did you do at Potter Lawson 8 for the Edgewood High School campus besides -- 9 anything beyond the fine arts building? 10 A. No. 11 Q. Okay. Any current projects that are under way? 12 A. No. 13 Q. And when you did the fine arts project, who retained 14 you then? 15 A. The high school. 16 Q. And who was your lead contact person at Edgewood High 17 School? 18 A. So I should clarify, for the performing arts facility 19 at the high school, I was not involved in that 20 project. 21 Q. Okay. 22 A. Jim Moravec was the primary architect on that project 23 because he has experience with performing arts 24 facilities and I have not. My understanding was 25 Michael Elliott was the president of the high school</p>	<p style="text-align: right;">Page 17</p> <p>1 THE WITNESS: Yes. 2 BY MR. INGRISANO: 3 Q. Can you explain to me what Potter Lawson's 4 involvement was in that engagement? 5 A. So the City had changed the zoning, come up with a 6 new zoning for the City, updated zoning, which 7 included a district called campus institutional 8 district which required a master plan for campus such 9 as like hospital campus or a college campus or a 10 potentially, you know, an office corporate campus 11 where you could claim that zoning district or rezone 12 your property to that zoning district if you had a 13 master plan that was approved. 14 And so we went through the process of 15 creating a master plan in order to get into that 16 zoning district in order to make future approvals 17 easier for the campus. 18 Q. The City's enactment though of the -- the City's 19 decision and the terms and the text and the substance 20 of this new enactment, the campus institutional 21 district zoning -- 22 (Interruption.) 23 (Record read.) 24 BY MR. INGRISANO: 25 Q. Sir, was it your understanding that a campus master</p>

<p style="text-align: right;">Page 18</p> <p>1 plan was a condition, requirement for prerequisite 2 for being rezoned as a campus institutional district? 3 A. Yes. 4 MR. JEAN-LOUIS: Objection, form, 5 foundation. 6 BY MR. INGRISANO: 7 Q. Sorry, go ahead. 8 A. Yes. 9 Q. And what was the basis for that understanding? Where 10 did your understanding of that come from? 11 A. It's written in the zoning code of the City. 12 Q. Did anyone at the City of Madison ever confirm that 13 reading of the code that in fact a master plan was 14 required to become campus institutional? 15 A. Yes. 16 Q. And who was that? 17 A. I would -- Matt Tucker, zoning administrator and Tim 18 Parks was a planner with the planning department. 19 Q. Okay. And do you recall when they advised you of 20 that? 21 A. No. 22 Q. Okay. 23 A. But it was during the process. 24 Q. Do you recall them advising you of that kind of 25 in-person, face-to-face or on the phone or in email?</p>	<p style="text-align: right;">Page 20</p> <p>1 more of the Edgewood entities, you were not involved 2 for them in that process? 3 A. Correct. 4 (Exhibit 52 previously marked.) 5 BY MR. INGRISANO: 6 Q. Okay. You wanted the master plan, sir. We've got it 7 here for you. I have not stapled it. It's 8 double-sided. I'm handing you what's been marked as 9 Exhibit 52. There is also I note a handwritten 10 notation, Exhibit 7, at the bottom, but we'll refer 11 to this as Exhibit 52 for today's purposes. 12 MR. INGRISANO: For the record, Counsel, 13 this is the document that bears the court filing 14 stamp filed 2-19-21 page 2 of 28 through page 228 of 15 228. 16 BY MR. INGRISANO: 17 Q. Sir, I'm going to ask you to take a look at this 18 Exhibit 52. Do you recognize this as the Edgewood 19 Campus master plan? 20 A. Yes. 21 Q. And you were involved in the preparation of this 22 document, correct? 23 A. Yes. 24 Q. May I ask, sir, who originally retained you to assist 25 with the master plan?</p>
<p style="text-align: right;">Page 19</p> <p>1 A. It's probably a variety of those, but during the 2 process we did have meetings face-to-face with the 3 City in order to get information and recommendations 4 from them as to how to put the master plan together 5 and what it should include. 6 Q. Okay. Did anyone ever describe the master plan to 7 you as being voluntary? 8 MR. JEAN-LOUIS: Object to form. 9 THE WITNESS: Not that I recall. 10 BY MR. INGRISANO: 11 Q. When the City decided to go the route and decided 12 they were going to create this new ordinance kind of 13 regime, do you know if Edgewood had any involvement 14 in the City's decision or planning or process to 15 amend their ordinances? 16 MR. JEAN-LOUIS: Object to form and 17 foundation. 18 THE WITNESS: I'm not sure. I know that 19 the process for the City to create a new zoning 20 ordinance had ample time for public feedback. I'm 21 not sure if the campus was involved with providing 22 feedback to the City regarding the new zoning 23 district. 24 BY MR. INGRISANO: 25 Q. Okay. But in your process of representing one or</p>	<p style="text-align: right;">Page 21</p> <p>1 A. Edgewood College. 2 Q. What did you understand would be the role of Edgewood 3 High School in the master planning process? 4 MR. JEAN-LOUIS: Object to foundation. 5 THE WITNESS: Both the high school and the 6 campus school were consulted with during the master 7 planning process, and the three institutions had to 8 approve the document before we submitted it. 9 BY MR. INGRISANO: 10 Q. Okay. Was there one institution more than the other 11 that took a lead role in preparing this document? 12 MR. JEAN-LOUIS: Object to form and 13 foundation. 14 THE WITNESS: Yes, the college. The 15 college had more, at the time, more potential 16 projects than the campus school or the high school. 17 But both campus school and the high school also had 18 potential projects that they wanted included in the 19 master plan. 20 BY MR. INGRISANO: 21 Q. Okay. Let me ask you to turn, sir, looking at the 22 top right-hand corner of each of these pages, page 13 23 of 228. Before we look at that though, can you kind 24 of summarize for me, sir, what was the process that 25 was in place for preparing and drafting this master</p>

<p style="text-align: right;">Page 22</p> <p>1 plan? How did it come about?</p> <p>2 A. It was a long process. Let's think about what -- so</p> <p>3 we met with the college, the high school, the campus</p> <p>4 school. We discussed potential future projects with</p> <p>5 each of the institutions. We then came up with sort</p> <p>6 of a graphic that showed where potential projects</p> <p>7 might occur on the campus. We then met with the</p> <p>8 neighborhood and the City and went through several</p> <p>9 meetings with them.</p> <p>10 The neighborhood created a liaison</p> <p>11 committee which we met more often to try to address</p> <p>12 the neighborhood's concerns with potential projects</p> <p>13 that would occur on the campus which dealt with</p> <p>14 traffic, noise, campus population, number of cars on</p> <p>15 the campus, how close buildings came to the</p> <p>16 neighborhood, what type of landscaping and green</p> <p>17 space would be maintained.</p> <p>18 There were, you know, several more</p> <p>19 detailed elements as part of the master plan</p> <p>20 including archaeological sites on the campus that</p> <p>21 need to be maintained, storm water, grading, many</p> <p>22 more things like that I think that are included in</p> <p>23 the master plan.</p> <p>24 Q. Okay. In terms of the kind of the required substance</p> <p>25 of the plan, where did Edgewood -- where did the</p>	<p style="text-align: right;">Page 24</p> <p>1 Q. The first line of that letter says "thank you for</p> <p>2 working with us to complete the rezoning of the</p> <p>3 Edgewood Campus from conditional use to campus</p> <p>4 institutional zoning."</p> <p>5 Did I read that correctly?</p> <p>6 A. Yes.</p> <p>7 Q. So prior to becoming campus institutional zoning, I</p> <p>8 take it from this sentence that Edgewood Campus was</p> <p>9 zoned as conditional use?</p> <p>10 MR. JEAN-LOUIS: Object to form.</p> <p>11 THE WITNESS: Yes, conditional use as</p> <p>12 within a residential zoning district.</p> <p>13 BY MR. INGRISANO:</p> <p>14 Q. Okay.</p> <p>15 A. I am not sure which one. But yeah.</p> <p>16 Q. So --</p> <p>17 A. Yes.</p> <p>18 Q. So based on that sentence, as of May 13, 2015, had</p> <p>19 Edgewood been rezoned campus institutional zoning to</p> <p>20 your understanding?</p> <p>21 MR. JEAN-LOUIS: Object to form,</p> <p>22 foundation.</p> <p>23 THE WITNESS: Yes.</p> <p>24 BY MR. INGRISANO:</p> <p>25 Q. When did that rezoning take place -- Strike that.</p>
<p style="text-align: right;">Page 23</p> <p>1 Edgewood entities get their guidance for what had to</p> <p>2 be in the master plan?</p> <p>3 A. So that's a good question. This was the first master</p> <p>4 plan in the City as far as trying to rezone to campus</p> <p>5 institutional zoning. So there was not clear</p> <p>6 direction from the City as to what should be included</p> <p>7 in the master plan. So there was, you know, a bit of</p> <p>8 trial and error with creating the documents,</p> <p>9 submitting it to the City, getting their feedback and</p> <p>10 then modifying the documents to have some of the</p> <p>11 necessary documentation that would be required for</p> <p>12 the rezoning.</p> <p>13 A lot of the information in the master</p> <p>14 plan just comes from our knowledge as to what should</p> <p>15 be included in a master plan to help guide future</p> <p>16 development and to try to be comprehensive with all</p> <p>17 the potential physical structures on the campus.</p> <p>18 Q. Sir, let's turn now to that page 13 of 228.</p> <p>19 A. Okay.</p> <p>20 Q. Is that your signature on this page?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. This is a letter you wrote, drafted -- I'm</p> <p>23 sorry, this is a letter you wrote dated May 13, 2015;</p> <p>24 is that right?</p> <p>25 A. Correct.</p>	<p style="text-align: right;">Page 25</p> <p>1 When was that rezoning classification complete?</p> <p>2 MR. JEAN-LOUIS: Object to foundation.</p> <p>3 THE WITNESS: I'm not entirely sure but I</p> <p>4 believe sometime in 2014.</p> <p>5 BY MR. INGRISANO:</p> <p>6 Q. What would you -- what would make you think that?</p> <p>7 What were you looking for on the front page of that</p> <p>8 exhibit?</p> <p>9 A. I take that back. It must be 2015. It's the -- I'm</p> <p>10 just looking at the title page of the exhibit that</p> <p>11 has the zoning department sign-off.</p> <p>12 Q. So you're looking at page 12 of 228?</p> <p>13 A. Yes.</p> <p>14 Q. Where there is a stamp with handwriting on the front</p> <p>15 of it?</p> <p>16 A. Correct.</p> <p>17 Q. And it --</p> <p>18 A. We submitted it in 2014, and that sign-off date was</p> <p>19 2015.</p> <p>20 Q. Got it. So to your understanding and based on your</p> <p>21 involvement in the project, rezoning to campus</p> <p>22 institutional didn't occur until that final sign-off</p> <p>23 date, correct?</p> <p>24 A. I believe so.</p> <p>25 Q. The next page, page 14 of 228, you write again,</p>

<p style="text-align: right;">Page 26</p> <p>1 that's again another letter from you dated December</p> <p>2 3, 2015, correct?</p> <p>3 A. Correct.</p> <p>4 Q. It says "thank you for working with us to complete</p> <p>5 the rezoning of the Edgewood Campus from conditional</p> <p>6 use to campus institutional zoning."</p> <p>7 Correct?</p> <p>8 A. Correct.</p> <p>9 Q. And again, it was your testimony today and your</p> <p>10 understanding at the time that the master plan</p> <p>11 process was a prerequisite to being rezoned as campus</p> <p>12 institutional, right?</p> <p>13 A. Correct.</p> <p>14 Q. Let me ask you to turn to page 1 of the master plan,</p> <p>15 page 17 of 228 where it says 1.1 master plan purpose,</p> <p>16 do you see that?</p> <p>17 A. Yes.</p> <p>18 Q. Let me ask you to read that first paragraph to</p> <p>19 yourself.</p> <p>20 (Witness peruses document.)</p> <p>21 THE WITNESS: Okay.</p> <p>22 BY MR. INGRISANO:</p> <p>23 Q. So the sentence that begins "the Edgewood Campus has</p> <p>24 been zoned campus institutional which requires the</p> <p>25 campus have an approved master plan to meet the</p>	<p style="text-align: right;">Page 28</p> <p>1 MR. JEAN-LOUIS: Objection, foundation.</p> <p>2 THE WITNESS: I would support that. I</p> <p>3 would think that they would.</p> <p>4 BY MR. INGRISANO:</p> <p>5 Q. You would hope so.</p> <p>6 A. Yes.</p> <p>7 Q. And if something was incorrect in that master plan</p> <p>8 document from an ordinance standpoint, you would want</p> <p>9 them to point that out, correct?</p> <p>10 A. Yes.</p> <p>11 MR. JEAN-LOUIS: Object to form.</p> <p>12 BY MR. INGRISANO:</p> <p>13 Q. When you were in your master planning process</p> <p>14 preparing the document, who was the -- who did you</p> <p>15 understand to be the representative for Edgewood High</p> <p>16 School?</p> <p>17 A. Michael --</p> <p>18 MR. JEAN-LOUIS: Objection to form.</p> <p>19 THE WITNESS: Michael Elliott.</p> <p>20 BY MR. INGRISANO:</p> <p>21 Q. Did Judge Schemmel ever have any role in the master</p> <p>22 plan process to your recollection on behalf of</p> <p>23 Edgewood High School?</p> <p>24 A. I don't -- I don't think so. I don't recall if he</p> <p>25 was involved at the beginning. I know Judge Schemmel</p>
<p style="text-align: right;">Page 27</p> <p>1 zoning requirements."</p> <p>2 Did I read that correctly?</p> <p>3 MR. JEAN-LOUIS: Object to the form.</p> <p>4 THE WITNESS: Yes.</p> <p>5 BY MR. INGRISANO:</p> <p>6 Q. And that sentence reflects your understanding that</p> <p>7 the master plan was indeed required to meet campus</p> <p>8 institutional zoning requirements; is that right?</p> <p>9 A. Yes.</p> <p>10 Q. Did anyone at the City ever advise you that this</p> <p>11 language in 1.1 was incorrect?</p> <p>12 A. No.</p> <p>13 Q. Did the City -- when this was first submitted to the</p> <p>14 City of Madison, did they request edits or changes to</p> <p>15 the master plan?</p> <p>16 MR. JEAN-LOUIS: Object to form.</p> <p>17 THE WITNESS: I would say yes. To my</p> <p>18 recollection we made changes to the master plan</p> <p>19 based on the City's departments that review the</p> <p>20 master plan.</p> <p>21 BY MR. INGRISANO:</p> <p>22 Q. To your understanding the City of Madison reads the</p> <p>23 master plan that's submit -- Strike that.</p> <p>24 The City of Madison read this master plan</p> <p>25 when it was submitted by you and Edgewood, correct?</p>	<p style="text-align: right;">Page 29</p> <p>1 was involved when we were working on the Dominican</p> <p>2 Hall residence hall, but I don't recall on the master</p> <p>3 plan if he was involved at the beginning.</p> <p>4 (Exhibit 159 previously marked.)</p> <p>5 BY MR. INGRISANO:</p> <p>6 Q. Sure. Mr. Hursh, I'm going to hand you what's been</p> <p>7 marked as Exhibit 159. Do you recognize that</p> <p>8 document?</p> <p>9 A. I don't recall, but it does look like a preliminary</p> <p>10 table of contents.</p> <p>11 Q. Okay. Is this something that -- it's got the Potter</p> <p>12 Lawson stamp on it on the bottom. I can represent to</p> <p>13 you the Potter Lawson Bates labels Potter 06564</p> <p>14 through 06565 notes that it came from your firm in</p> <p>15 the subpoena production.</p> <p>16 Do you recognize that as the Potter Lawson</p> <p>17 insignia on the bottom right?</p> <p>18 A. Yes.</p> <p>19 Q. Did you create -- did you or anyone else at Potter</p> <p>20 Lawson create documents like this to track work on</p> <p>21 the master plan?</p> <p>22 A. Yes.</p> <p>23 MR. JEAN-LOUIS: Object to form.</p> <p>24 BY MR. INGRISANO:</p> <p>25 Q. In looking at this Exhibit 159, table of contents,</p>

<p style="text-align: right;">Page 30</p> <p>1 does it appear -- to your review, does it generally</p> <p>2 track with the contents of the Edgewood Campus master</p> <p>3 plan?</p> <p>4 A. It looks like it does, yes.</p> <p>5 Q. With respect to the third column in, it says</p> <p>6 responsibility/coordination, do you see that?</p> <p>7 A. Yes.</p> <p>8 Q. Do you know who MBC is?</p> <p>9 A. Yes.</p> <p>10 Q. Who is that?</p> <p>11 A. Maggie Balistreri-Clark.</p> <p>12 Q. And who is -- who did she represent?</p> <p>13 MR. JEAN-LOUIS: Objection, form.</p> <p>14 THE WITNESS: She's the Dean of Students</p> <p>15 or was the Dean of Students at Edgewood College.</p> <p>16 BY MR. INGRISANO:</p> <p>17 Q. To your knowledge did she have any role or</p> <p>18 responsibilities for Edgewood High School?</p> <p>19 MR. JEAN-LOUIS: Objection, form,</p> <p>20 foundation.</p> <p>21 THE WITNESS: She -- no. I mean she</p> <p>22 wasn't an employee of the high school, but my</p> <p>23 understanding is the three campuses gave her the</p> <p>24 responsibility of coordinating the master plan for</p> <p>25 the campus institutions.</p>	<p style="text-align: right;">Page 32</p> <p>1 A. Yes, Schreiber Anderson and Associates. They were</p> <p>2 our civil and traffic consultants.</p> <p>3 Q. And how -- when it says on the next page, there is a</p> <p>4 notation where it says on the last line it says DH</p> <p>5 MBC, City, what's city or who is city?</p> <p>6 A. On that, on those portions of the master plan we</p> <p>7 wanted input from the City to get more information</p> <p>8 about how they wanted these aspects of the master</p> <p>9 plan to be written.</p> <p>10 Q. So if I ask you to look at this page -- to your</p> <p>11 understanding the column here</p> <p>12 responsibility/coordination, is it fair to say that</p> <p>13 the person designated, person or persons designated</p> <p>14 as being responsible for a particular row, that they</p> <p>15 are in fact, I'm sorry, responsible for advancing</p> <p>16 that portion of the master plan?</p> <p>17 MR. JEAN-LOUIS: Objection, form,</p> <p>18 foundation.</p> <p>19 THE WITNESS: I would say yes although as</p> <p>20 far as the City's role, they wouldn't necessarily</p> <p>21 write those sections. But we needed their input and</p> <p>22 review more heavily, and we wanted more sort of</p> <p>23 feedback from them on those two topics.</p> <p>24 BY MR. INGRISANO:</p> <p>25 Q. In looking at this document Exhibit 159, is it fair</p>
<p style="text-align: right;">Page 31</p> <p>1 BY MR. INGRISANO:</p> <p>2 Q. Coordinating, taking on kind of the lead role?</p> <p>3 A. Yes.</p> <p>4 MR. JEAN-LOUIS: Objection, form, late</p> <p>5 objection to form.</p> <p>6 BY MR. INGRISANO:</p> <p>7 Q. And I'm sorry, I may have asked this already, DH is</p> <p>8 you, right?</p> <p>9 A. Yes.</p> <p>10 Q. Doug Hursh?</p> <p>11 A. Yes.</p> <p>12 Q. And there are a couple of notations there, it says DH</p> <p>13 slash or dash -- Strike that.</p> <p>14 There are a couple notations where it says</p> <p>15 DH, a dash or hyphen, PLI, do you see that?</p> <p>16 A. Yes.</p> <p>17 Q. Do you know what that represents?</p> <p>18 A. Potter Lawson, Inc.</p> <p>19 Q. What's the difference between a designation that says</p> <p>20 DH versus a designation that says DH-PLI?</p> <p>21 A. I don't think there is any difference.</p> <p>22 Q. Okay.</p> <p>23 A. Not sure why that is like that.</p> <p>24 Q. How about SAA, do you know what those initials would</p> <p>25 represent in that third column?</p>	<p style="text-align: right;">Page 33</p> <p>1 to say that there is no one from Edgewood High School</p> <p>2 that has been designated as being responsible for</p> <p>3 coordinating content on the master plan?</p> <p>4 A. Correct.</p> <p>5 MR. JEAN-LOUIS: Objection to form.</p> <p>6 BY MR. INGRISANO:</p> <p>7 Q. I'm sorry?</p> <p>8 A. Correct.</p> <p>9 Q. When I look down at chapter 3, proposed conditions in</p> <p>10 the one, two, three, four, five, sixth line down, it</p> <p>11 says "open space plan-landscaping and green space."</p> <p>12 Do you see that?</p> <p>13 A. Yes.</p> <p>14 Q. And who is the responsible person for that section?</p> <p>15 A. Myself.</p> <p>16 Q. Give me a sense as to what was involved in being --</p> <p>17 Strike that.</p> <p>18 Do you agree with this document that you</p> <p>19 were in fact the person that was responsible for</p> <p>20 coordinating the content on the open space section of</p> <p>21 the master plan?</p> <p>22 A. Yes.</p> <p>23 MR. JEAN-LOUIS: Object to form.</p> <p>24 BY MR. INGRISANO:</p> <p>25 Q. And what was involved in coordinating that section?</p>

<p style="text-align: right;">Page 34</p> <p>1 A. We created site plan documents that outlined areas on 2 the campus that would remain green space and open 3 space similar to we drew areas on the plan for 4 potential future buildings. So this plan was 5 designed to communicate that there would be open 6 space and green space in these potential areas. 7 Q. Okay. 8 A. I guess that's the beginning of that process. Once 9 we did draw those drawings, the plans were circulated 10 to the different institutions to get their feedback 11 and approval before it went into the master plan. 12 (Exhibit 160 previously marked.) 13 BY MR. INGRISANO: 14 Q. Okay. Thank you. I'm going to hand you what's been 15 marked as Exhibit 160. Do you recognize that, sir, 16 as another table of contents created by Potter Lawson 17 dated October 17, 2013? 18 A. Yes. 19 Q. And is this a later version of what you saw on 20 Exhibit 159? 21 A. Yes. 22 Q. Okay. 23 A. Looks like it. 24 Q. With respect to chapter 1 where it says master plan 25 process, responsibility coordination says MBC-process</p>	<p style="text-align: right;">Page 36</p> <p>1 change from the June 13, 2013 version on Exhibit 159, 2 correct? 3 A. Correct. 4 MR. JEAN-LOUIS: Objection, form. 5 BY MR. INGRISANO: 6 Q. As it relates to open space plan, right? 7 A. Right. 8 (Exhibit 161 previously marked.) 9 BY MR. INGRISANO: 10 Q. Mr. Hursh, handing you what's been marked as Exhibit 11 161. Do you recognize that as a November 12, 2013 12 version of the table of contents, correct? 13 A. Correct. 14 Q. Is it fair to say that with Exhibit 159, 160, 161, 15 this table of contents document was being used as 16 kind of a running to-do list? 17 MR. JEAN-LOUIS: Object to the form. 18 THE WITNESS: Agreed. 19 BY MR. INGRISANO: 20 Q. Looking at the responsibility/coordination column, do 21 you see any references to Edgewood High School 22 representatives? 23 MR. JEAN-LOUIS: Objection, form, 24 foundation. 25 THE WITNESS: No.</p>
<p style="text-align: right;">Page 35</p> <p>1 DH-purpose, correct? 2 A. Correct. 3 Q. What's that distinction there meant to show? 4 A. That I would write or draft a purpose narrative for 5 the master plan and Maggie would write the process 6 portion. 7 Q. Looking down the responsibility/coordination column, 8 we get down to sustainability, I'm seeing some new 9 initials. HS, do you know what that stands for? 10 A. High school, high school/campus school. 11 Q. Okay. And how about SS, is that Susan Serrault? 12 A. Yes. 13 Q. I don't know if I have -- if this is a complete copy 14 of this document because it's only one page, but at 15 least on the one page that you're seeing here, Potter 16 6554, do you see any Edgewood High School references 17 other than under sustainability? 18 MR. JEAN-LOUIS: Objection, form, 19 foundation. 20 BY MR. INGRISANO: 21 Q. In the responsibility and coordination section, 22 row -- sorry. Strike that. Column. 23 A. I do not. 24 Q. Okay. And again, with respect to the open space plan 25 three quarters of the way down this page, there is no</p>	<p style="text-align: right;">Page 37</p> <p>1 BY MR. INGRISANO: 2 Q. Under sustainability it does say HS/CS, right? 3 A. Yup, on the second page, yes. 4 Q. Okay. That's the only reference that you understood 5 to mean the high school; is that fair? 6 A. Correct. 7 Q. With respect to the open space plan, page 2 chapter 8 3, you see now it appears to add Ed Taylor, do you 9 see that? 10 A. Yes. 11 Q. Who is Ed Taylor? 12 MR. JEAN-LOUIS: Objection, foundation. 13 THE WITNESS: Ed Taylor was an employee or 14 is an employee of the college. He had more of a 15 public relations role I believe. 16 BY MR. INGRISANO: 17 Q. Okay. Do you recall working with Mr. Taylor on the 18 open space plan portion of the master plan? 19 A. That is hard for me to say. I know that we did work 20 with Ed on or were planning to work with Ed to help 21 with some of the descriptions. I don't recall if he 22 ever did provide descriptions for that section. 23 (Exhibit 162 previously marked.) 24 BY MR. INGRISANO: 25 Q. I'll hand you what's been marked as Exhibit 162, Mr.</p>

<p style="text-align: right;">Page 38</p> <p>1 Hursh. Do you recognize that, sir, as a November 19,</p> <p>2 2013 version of the table of contents to-do list?</p> <p>3 A. Yes.</p> <p>4 Q. This one, different from 161, actually references</p> <p>5 chapter subsections on the far left column, correct?</p> <p>6 A. Correct.</p> <p>7 Q. And from your just quick review, those appear to</p> <p>8 coincide with the section headings actually in the</p> <p>9 master plan Exhibit 52, correct?</p> <p>10 A. I would believe so.</p> <p>11 MR. JEAN-LOUIS: Object to form.</p> <p>12 BY MR. INGRISANO:</p> <p>13 Q. With respect to 3.8, the open space plan, there is no</p> <p>14 change and it's -- from what we see in Exhibit 161,</p> <p>15 correct?</p> <p>16 A. Correct.</p> <p>17 Q. Responsibility/coordination still says DH Ed Taylor</p> <p>18 to help with descriptions, correct?</p> <p>19 A. Correct.</p> <p>20 Q. And once again, with respect -- with the exception of</p> <p>21 sustainability, the sustainability row, 3.10, there</p> <p>22 are no references to any Edgewood employees you're</p> <p>23 aware of as being under the</p> <p>24 responsibility/coordination column, correct?</p> <p>25 MR. JEAN-LOUIS: Objection, form.</p>	<p style="text-align: right;">Page 40</p> <p>1 Q. Any other role that you recall interacting with</p> <p>2 Edgewood on, Edgewood High School?</p> <p>3 A. Edgewood High School, so Edgewood High School had</p> <p>4 another architecture firm they were working with</p> <p>5 during this process where they were looking at</p> <p>6 renovations to the high school and where they might</p> <p>7 have additions. And we met with them in the high</p> <p>8 school to understand the types of future additions</p> <p>9 and renovations that they would be doing to their</p> <p>10 building so that we could include that in the master</p> <p>11 plan.</p> <p>12 We did send, during the process we did</p> <p>13 send the master plan drafts to the high school and</p> <p>14 the campus school for their review before anything</p> <p>15 went out. And the high school and the campus school</p> <p>16 were involved in a meeting, I don't know if it's</p> <p>17 monthly meetings but they were regularly scheduled</p> <p>18 meetings where the three institutions got together,</p> <p>19 the leaders of the three institutions got together to</p> <p>20 review things, mutual issues that they needed to</p> <p>21 communicate to each other on which included reviewing</p> <p>22 the process of the master plan. I was typically not</p> <p>23 involved in those leadership meetings.</p> <p>24 Q. What was the name of the architecture firm you met</p> <p>25 with?</p>
<p style="text-align: right;">Page 39</p> <p>1 THE WITNESS: Can you say that -- can you</p> <p>2 ask that again?</p> <p>3 MR. INGRISANO: Sure.</p> <p>4 BY MR. INGRISANO:</p> <p>5 Q. With respect to the responsibility/coordination</p> <p>6 column that we talked about on this document, Exhibit</p> <p>7 162, again, there are no Edgewood High School</p> <p>8 representatives that you recognize designated in any</p> <p>9 of those --</p> <p>10 A. Correct.</p> <p>11 Q. -- items?</p> <p>12 MR. JEAN-LOUIS: Objection, foundation.</p> <p>13 BY MR. INGRISANO:</p> <p>14 Q. Sir, is it fair to say that Edgewood College, Maggie</p> <p>15 Balistreri-Clark, Ed Taylor, Susan Serrault, were the</p> <p>16 folks that you worked with principally in preparing</p> <p>17 and drafting the master plan on behalf of the</p> <p>18 Edgewood Campus institutions?</p> <p>19 A. Yes.</p> <p>20 Q. Is it fair to say that your interaction with Edgewood</p> <p>21 High School in this process was limited to working</p> <p>22 with them on gathering specific types of information?</p> <p>23 MR. JEAN-LOUIS: Objection, form.</p> <p>24 THE WITNESS: Yes.</p> <p>25 BY MR. INGRISANO:</p>	<p style="text-align: right;">Page 41</p> <p>1 MR. JEAN-LOUIS: Objection, form.</p> <p>2 THE WITNESS: I think it's CaS -- they had</p> <p>3 a strange name. CaS4, something like that. But</p> <p>4 it's Paul Cuta, C U T A, is the principal architect.</p> <p>5 BY MR. INGRISANO:</p> <p>6 Q. Are they based in Madison?</p> <p>7 A. Yes.</p> <p>8 Q. So you had one or more informational meetings with</p> <p>9 them to better understand what was actually being</p> <p>10 planned for the main high school building; is that</p> <p>11 fair?</p> <p>12 A. Yes. I don't know if we had more than one. I think</p> <p>13 they sent us their drawings, we had a meeting to</p> <p>14 review and clarify, so maybe one or two meetings,</p> <p>15 yeah.</p> <p>16 Q. Okay.</p> <p>17 A. Communications.</p> <p>18 Q. So as I understand it, your recollection of Edgewood</p> <p>19 High School's role in this process was to, and you</p> <p>20 tell me if I misstate this, first, to provide</p> <p>21 information as requested; second, to basically make</p> <p>22 sure you understood with their architectural firm</p> <p>23 their plans for the building; third, to review</p> <p>24 drafts; and four, was attending the leadership</p> <p>25 meetings?</p>

<p style="text-align: right;">Page 42</p> <p>1 MR. JEAN-LOUIS: Objection, form, 2 foundation, misstates previous testimony. 3 BY MR. INGRISANO: 4 Q. Did I correctly state -- 5 A. I think yes. 6 Q. -- what you said? 7 A. I would say yes. 8 Q. Was there anything else that you recall Edgewood 9 doing as far as being part of this process? 10 A. The high school. 11 Q. Yes, sorry. Edgewood High School. 12 A. I'm trying to recollect if they -- if representatives 13 from the high school ever attended some of the public 14 meetings that we had with the neighborhood or the 15 neighborhood liaison committee, but I don't recall. 16 For the most part, Maggie Balistreri-Clark was given 17 the responsibility of representing the campus in both 18 creating the master plan, meeting with the 19 neighborhoods, meeting with the neighborhood liaison 20 committee, being part of City meetings. 21 Q. Got it. In those meetings, did you understand when 22 Maggie was speaking on behalf of the campus entities, 23 did you understand that she had the ability to make 24 binding commitments on behalf of Edgewood High 25 School?</p>	<p style="text-align: right;">Page 44</p> <p>1 BY MR. INGRISANO: 2 Q. Mr. Hursh, let me hand you what has been marked as 3 Exhibit 171 which is a declaration of Michael 4 Elliott. Have you ever seen this document before? 5 A. No. Is there a date on there? 6 Q. Sure. Last, second to last page 12, June 10, 2022. 7 A. Okay. 8 Q. This was submitted in this litigation by Mr. Elliott. 9 A. Okay. 10 Q. But you haven't seen that document before today; is 11 that right? 12 A. No, I have not. 13 Q. Let me ask you to take a look at paragraph 26 on page 14 6 of this document. That paragraph starts with 15 Mr. -- it says "Mr. Tucker relied upon EHS's 2014 16 master plan." 17 Mr. Elliott goes on to say "EHS and I had 18 very little involvement with the drafting of the 19 master plan. New to my job in 2013 when the master 20 plan was being put together, my understanding was 21 that it would govern and facilitate building 22 projects." 23 Did I read that correctly? 24 A. Yes. 25 Q. Do you have any reason to believe -- let me ask you</p>
<p style="text-align: right;">Page 43</p> <p>1 MR. JEAN-LOUIS: Objection, form, 2 foundation. 3 THE WITNESS: I am not sure about binding 4 commitments, but I -- she did regularly, I believe, 5 attend the leadership meetings with the three 6 presidents and get feedback from the three of them 7 before making any types of presentations to the City 8 or the neighborhood. 9 BY MR. INGRISANO: 10 Q. Okay. When did you -- do you recall when -- let me 11 ask you this. 12 Did you attend any of those liaison 13 neighborhood meetings? 14 A. Yes. 15 Q. Do you recall when the last one was that you 16 attended? 17 A. No. 18 Q. After the master plan was approved, did you continue 19 to attend those meetings? 20 A. No. 21 Q. How are we doing? 22 A. Good. 23 Q. Need a break? 24 A. No, I'm fine. Thank you. 25 (Exhibit 171 marked.)</p>	<p style="text-align: right;">Page 45</p> <p>1 this. 2 Do you have any reason to disagree with Mr. 3 Elliott's two statements there? 4 MR. JEAN-LOUIS: Objection, form, 5 foundation. 6 THE WITNESS: No. 7 BY MR. INGRISANO: 8 Q. When he said that EHS and I had very little 9 involvement with the drafting of the master plan, do 10 you think that's a fair characterization? 11 MR. JEAN-LOUIS: Objection, form, 12 foundation. 13 THE WITNESS: Yes. I mean they did not, 14 you know, participate in the direct drafting of the 15 plan but were involved in reviewing it. 16 BY MR. INGRISANO: 17 Q. Sure. He continues on "as I was not then planning on 18 undertaking a building project for EHS, I did not 19 dive into the master plan beyond what I thought were 20 the basics." 21 Did I read that correctly? 22 A. Yes. 23 Q. At that time when the master plan was being prepared 24 and drafted, was Edgewood High School planning on 25 what you would call a building project?</p>

<p style="text-align: right;">Page 46</p> <p>1 MR. JEAN-LOUIS: Objection, form, 2 foundation. 3 THE WITNESS: Not an immediate building 4 project, but we did have documents from their 5 architect that showed potential additions and 6 modifications to the existing building. 7 BY MR. INGRISANO: 8 Q. Okay. Do you have any reason to disagree with his 9 statement "I did not dive into the master plan beyond 10 what I thought were the basics" based on your 11 conversations with him, your observations of him? 12 MR. JEAN-LOUIS: Objection, form, 13 foundation. 14 THE WITNESS: I agree. 15 BY MR. INGRISANO: 16 Q. He goes on to say "Edgewood College, who did intend 17 to pursue many buildings projects, provided most of 18 the content for the master plan, not EHS." 19 Did I read that correctly? 20 A. Correct. 21 Q. Do you agree with that statement? 22 MR. JEAN-LOUIS: Objection, form, 23 foundation. 24 THE WITNESS: Correct, yes. 25 BY MR. INGRISANO:</p>	<p style="text-align: right;">Page 48</p> <p>1 Elliott's statement there? 2 MR. JEAN-LOUIS: Objection, form, 3 foundation. 4 THE WITNESS: No. 5 (Exhibit 172 marked.) 6 BY MR. INGRISANO: 7 Q. Mr. Hursh, handing you what's been marked as Exhibit 8 172, that's a declaration of Judge Schemmel dated 9 June 8 of 2022, do you see that? 10 A. Yes. 11 Q. Have you ever seen this document before? 12 A. No. 13 Q. First paragraph Mr. Schemmel testifies, "I was the 14 president of Edgewood High School from 2005 to 2013." 15 Did I read that correctly? 16 A. Yes. 17 Q. Do you have any recollection of -- let me ask you 18 this. 19 Do you have any reason to disagree that Mr. 20 Schemmel was the president of Edgewood from 2005 to 21 2013? 22 MR. JEAN-LOUIS: Objection, foundation. 23 THE WITNESS: No. 24 BY MR. INGRISANO: 25 Q. Okay. He says "I was succeeded in that role by</p>
<p style="text-align: right;">Page 47</p> <p>1 Q. In the last sentence he says, in his words he 2 characterizes Edgewood College as the one who was 3 "leading the charge on the master plan." 4 Do you think that's a fair 5 characterization? 6 A. Yes. 7 MR. JEAN-LOUIS: Objection, form. 8 BY MR. INGRISANO: 9 Q. Paragraph 27, Mr. Elliott writes or testifies "EHS 10 identified four future projects in the master plan. 11 The remaining 18 proposed projects were identified by 12 Edgewood College and the Campus School." 13 Did I read that correctly? 14 A. Yes. 15 Q. Does that comport with your general recollection of 16 the ratio of projects by institution? 17 A. Generally, yes. 18 Q. Paragraph 33, sir, on the next page, page 8, the last 19 sentence of that paragraph 33, Mr. Elliott testifies 20 "again, our involvement was more as an accommodation 21 to Edgewood College, our sister institution and 22 partner." 23 Did I read that correctly? 24 A. Yes. 25 Q. Do you have any reason to disagree about -- with Mr.</p>	<p style="text-align: right;">Page 49</p> <p>1 Michael Elliott." 2 Do you see that? 3 A. Yes. 4 Q. Does that comport with your recollection of the -- 5 who was being -- who was president at Edgewood High 6 School? 7 A. Yes. 8 Q. Paragraph 7 on the second page of this Exhibit 172, 9 he writes "to the best of my recollection I was not 10 involved in drafting or preparing Edgewood's 2014 11 master plan." 12 Do you see that? 13 A. Yes. 14 Q. And do you have any reason to disagree and believe 15 that he was involved in drafting and preparing that 16 plan? 17 MR. JEAN-LOUIS: Objection, form, 18 foundation. 19 THE WITNESS: I don't believe he was 20 involved in drafting it or putting it together. I 21 don't have a very good recollection of what his 22 involvement was, but I would assume that he -- if we 23 had anything written or decided upon when he was 24 president, that he would have reviewed it. 25 BY MR. INGRISANO:</p>

<p style="text-align: right;">Page 50</p> <p>1 Q. Sure. The second sentence on paragraph 7 says "my 2 tenure at Edgewood High School ended in July of 3 2013." 4 Do you see that? 5 A. Yes. 6 Q. From looking, whether based on your review of the 7 table of contents to-do lists or from your own 8 personal recollection, do you have a sense as to when 9 the significant portion of the drafting of the master 10 plan occurred? 11 MR. JEAN-LOUIS: Object to form. 12 THE WITNESS: Probably after June of 2013. 13 BY MR. INGRISANO: 14 Q. After June of 2013. Okay. 15 MR. INGRISANO: Why don't we take five 16 minutes. 17 (Recess taken.) 18 BY MR. INGRISANO: 19 Q. Back on the record. While we were on break, it 20 looked just like you were clarifying the name of that 21 architecture firm with the court reporter? 22 A. Yes. 23 Q. Could you just put that into the record, please? 24 What is the name of the firm? 25 A. I've already forgotten.</p>	<p style="text-align: right;">Page 52</p> <p>1 Q. And as I read it, am I correct that those numbered 2 open spaces correspond with the numbered open spaces 3 on the diagram on page 62 of 228? 4 A. Yes. 5 Q. Okay. The diagram on 62 of 228, based on your 6 familiarity with the project and the campus, is that 7 an accurate representation of the campus? 8 A. Yes. 9 Q. Is it to scale? 10 A. Yes. 11 Q. Let me ask you to take a look back at page 60 of 228. 12 Number 1, it says "athletic field owned by Edgewood 13 High School. Used for team practices, physical 14 education classes." 15 Did I read that correctly? 16 A. Yes. 17 Q. Do you know who contributed that language, that 18 content, to the master plan? 19 MR. JEAN-LOUIS: Objection, foundation. 20 THE WITNESS: I am not entirely sure. 21 BY MR. INGRISANO: 22 Q. Okay. Do you have any suspicions or best guesses? 23 MR. JEAN-LOUIS: Objection, form. 24 THE WITNESS: I know that we wrote that. 25 As far as getting feedback as to what we should</p>
<p style="text-align: right;">Page 51</p> <p>1 Q. Looking at your phone? Okay. 2 A. CaS4. It means nothing to me. 3 Q. The No. 4? 4 A. Yes, the number 4. That's why I cannot remember it. 5 Architecture, LLC. 6 Q. Thank you. Let me ask you to take a look at Exhibit 7 52, put the master plan back in front of us here. 8 And let's go to that open space section, 3.8 which I 9 recognize as being on page 60 of 228. Are you there? 10 A. Yes. 11 Q. Okay. So that's 3.8, the open space plan, correct? 12 A. Correct. 13 Q. And we talked about that before from the table of 14 contents to-dos that you were initially tasked with 15 drafting and then eventually Ed Taylor began helping 16 you; is that right? 17 MR. JEAN-LOUIS: Objection, form. 18 THE WITNESS: Yes, that's what the -- that 19 document states I guess as far as responsibilities. 20 I don't recall if Ed Taylor provided content or not. 21 BY MR. INGRISANO: 22 Q. Got it. In looking at page 60 of 228, it looks -- 23 and then onto 61, there appear to be a series of 24 numbered open spaces; is that correct? 25 A. Correct.</p>	<p style="text-align: right;">Page 53</p> <p>1 write for that segment, I don't recall. It was 2 probably something between myself and Maggie. 3 BY MR. INGRISANO: 4 Q. Do you have any recollection of speaking with Mike 5 Elliott about open space item No. 1? 6 A. I do not. 7 Q. In drafting -- in working on this master plan and 8 3.8, what was your understanding of the impact, if 9 any, of how open space number 1 was drafted? 10 A. Our -- 11 MR. JEAN-LOUIS: Objection, form, 12 foundation. 13 THE WITNESS: The impact of this document 14 in our minds was to highlight green space and open 15 space on the campus that would remain green space 16 and open space and not be used for buildings. 17 BY MR. INGRISANO: 18 Q. Okay. 19 A. And I can say the description was just meant to 20 describe the different open spaces on the campus. It 21 wasn't meant to limit use. 22 Q. Did you have any conversations with anyone in the 23 City of Madison or working employed by the City of 24 Madison about open space item No. 1, the athletic 25 field?</p>

<p style="text-align: right;">Page 54</p> <p>1 A. I don't recall anybody having any feedback on that.</p> <p>2 Q. Okay. Item No. 2 says "site of Edgewood Oaks, owned</p> <p>3 by Edgewood High School. This area is a large green</p> <p>4 space with heritage trees planted by Governor</p> <p>5 Washburn in the late 1800s. The space is used as</p> <p>6 recreational space, physical education and athletic</p> <p>7 team practices."</p> <p>8 Did I read that correctly?</p> <p>9 A. Yes.</p> <p>10 Q. So based on how those are described, athletic field</p> <p>11 versus the Edgewood Oaks section, was it your</p> <p>12 understanding that the Edgewood Oaks space could be</p> <p>13 used as a recreational space because it's listed</p> <p>14 there but the athletic field could not be used as a</p> <p>15 recreational space?</p> <p>16 MR. JEAN-LOUIS: Objection, form.</p> <p>17 THE WITNESS: No. Our intent for this</p> <p>18 section was that it described the different types of</p> <p>19 open space. It wasn't a description of specific</p> <p>20 uses for those spaces. The uses that we listed were</p> <p>21 just for communication purposes.</p> <p>22 (Exhibit 163 previously marked.)</p> <p>23 BY MR. INGRISANO:</p> <p>24 Q. Mr. Hursh, I'm handing you now what's been previously</p> <p>25 marked as Exhibit 163, you can leave that open,</p>	<p style="text-align: right;">Page 56</p> <p>1 Would you please forward on to someone who can assist</p> <p>2 me with this."</p> <p>3 Do you see that?</p> <p>4 A. Yes.</p> <p>5 Q. And is that -- the second page of this document at</p> <p>6 Potter 11718, do you recognize that as the green</p> <p>7 space plan prepared by your firm?</p> <p>8 A. That looks like a draft --</p> <p>9 MR. JEAN-LOUIS: Object to the form.</p> <p>10 THE WITNESS: -- version.</p> <p>11 BY MR. INGRISANO:</p> <p>12 Q. Do you recognize the handwriting on that second page?</p> <p>13 A. Yes.</p> <p>14 Q. Whose handwriting is that?</p> <p>15 A. That's mine.</p> <p>16 Q. And where it says site 1, do you see site 1 right</p> <p>17 there? That's the athletic field, correct?</p> <p>18 A. Yes, correct.</p> <p>19 Q. Can you read for me what those handwritten notations</p> <p>20 say?</p> <p>21 A. Yes. High school or abbreviated HS and there is a</p> <p>22 dash, no night games-practice field-games, question</p> <p>23 mark.</p> <p>24 Q. Okay. Do you recall what you were intending to</p> <p>25 convey with those notations?</p>
<p style="text-align: right;">Page 55</p> <p>1 Exhibit 163. And let me ask if you've ever seen that</p> <p>2 email and attachment before.</p> <p>3 (Witness peruses document.)</p> <p>4 THE WITNESS: What was your question about</p> <p>5 that?</p> <p>6 BY MR. INGRISANO:</p> <p>7 Q. Yeah. Do you recognize that email and the</p> <p>8 attachment?</p> <p>9 A. You know, I don't recall it from 2013.</p> <p>10 Q. Okay.</p> <p>11 A. But it looks like a good email.</p> <p>12 Q. Do you recall -- let me ask you this. On the cc on</p> <p>13 this first page of 163, that's your email address</p> <p>14 there?</p> <p>15 A. Yes.</p> <p>16 Q. D O U G H?</p> <p>17 A. Yes.</p> <p>18 Q. At PotterLawson.com?</p> <p>19 A. Correct.</p> <p>20 Q. And Susan Serrault, you mentioned her before, she was</p> <p>21 one of the people that worked with you on the master</p> <p>22 plan on behalf of Edgewood College, correct?</p> <p>23 A. Correct.</p> <p>24 Q. She writes to Judge Schemmel, "I have attached a copy</p> <p>25 of the green space plan prepared by Potter Lawson.</p>	<p style="text-align: right;">Page 57</p> <p>1 A. I believe we were asking their input on do they use</p> <p>2 the field for a practice field, for games, and did</p> <p>3 they agree that there were no night games.</p> <p>4 Q. Was it your -- does no night games, does that mean</p> <p>5 that there are not presently and have not been night</p> <p>6 games or that there prospectively will not be night</p> <p>7 games in the future? Do you have an understanding?</p> <p>8 A. No, I don't. Maybe both.</p> <p>9 Q. Okay. Did you ever hear of any commitments, promises</p> <p>10 or representations by someone from Edgewood High</p> <p>11 School that they would not play night games on the</p> <p>12 field?</p> <p>13 A. I believe there was an agreement in the 1996 master</p> <p>14 plan if that was called a master plan that there</p> <p>15 would not be -- that there was some agreement with</p> <p>16 the adjacent neighbors that there would not be lights</p> <p>17 on the field so that there would not be night games</p> <p>18 because there would not be lights.</p> <p>19 Q. Okay. But you weren't involved with that master</p> <p>20 plan, correct?</p> <p>21 A. Correct.</p> <p>22 Q. The master plan incorporates, does it not, prior</p> <p>23 agreements with the neighbors?</p> <p>24 A. I believe the master plan has a memorandum of</p> <p>25 understanding with the neighbors in the back, and I</p>

<p style="text-align: right;">Page 58</p> <p>1 believe it included some of the agreements from that</p> <p>2 1996 document in the appendix.</p> <p>3 Q. All right. So if we look at the table of contents on</p> <p>4 Exhibit 52 which is page 15 of 228, we have 4.2 is</p> <p>5 memorandum of understanding, correct?</p> <p>6 A. Correct.</p> <p>7 Q. 4.3 is affirming past agreements, correct?</p> <p>8 A. Correct.</p> <p>9 Q. Let's take a look at those two sections.</p> <p>10 A. Okay.</p> <p>11 Q. Are you there yet?</p> <p>12 A. No.</p> <p>13 Q. I'm not either.</p> <p>14 MR. JEAN-LOUIS: It's on page 73 of 228 I</p> <p>15 believe, Counsel.</p> <p>16 MR. INGRISANO: Thank you.</p> <p>17 THE WITNESS: 73?</p> <p>18 MR. INGRISANO: 73.</p> <p>19 BY MR. INGRISANO:</p> <p>20 Q. All right. 4.2 on page 73 of 228 is 4.2 memorandum</p> <p>21 of understanding, correct?</p> <p>22 A. Correct.</p> <p>23 Q. And page 77 of 228 is 4.3 affirming past agreements,</p> <p>24 do you see that?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 60</p> <p>1 (Exhibit 164 previously marked.)</p> <p>2 BY MR. INGRISANO:</p> <p>3 Q. Got it. Sir, handing you what's been previously</p> <p>4 marked as Exhibit 164. I'll represent that's a</p> <p>5 continuation of an email stream after Exhibit 163.</p> <p>6 Do you recall Mr. Schemmel's response or</p> <p>7 Ms. Serrault's thank you at the top of this Exhibit</p> <p>8 164?</p> <p>9 A. I don't remember this, but it looks like it happened.</p> <p>10 Q. Okay. Again, you're cc'd on Mr. Schemmel's response</p> <p>11 to Doug Hursh, correct?</p> <p>12 A. Correct.</p> <p>13 Q. And you're cc'd again on Susan Serrault's thank you</p> <p>14 very much email, correct?</p> <p>15 A. Correct.</p> <p>16 Q. All right. Mr. Schemmel on February 19, 2013 at</p> <p>17 12:53 wrote in part, "location No. 1, in addition to</p> <p>18 practices, games do take place on this athletic</p> <p>19 field. We play lower level boys and girls soccer as</p> <p>20 well as lower level football. Additionally, the</p> <p>21 space is used as the home field for our varsity</p> <p>22 lacrosse team. The space has been used to host a</p> <p>23 middle school level track and field meet comprised of</p> <p>24 Catholic feeder schools. We also use this space in</p> <p>25 conjunction with high school's summer strength and</p>
<p style="text-align: right;">Page 59</p> <p>1 Q. All right. In looking at 4.2, do you see any</p> <p>2 references to a commitment to not include field</p> <p>3 lights for the athletic field or to not host home</p> <p>4 games -- I'm sorry, to not host night games?</p> <p>5 MR. JEAN-LOUIS: Objection, form.</p> <p>6 THE WITNESS: I do not.</p> <p>7 BY MR. INGRISANO:</p> <p>8 Q. With respect to 4.3, affirming past agreements on</p> <p>9 page 77, do you see any reference to affirming a past</p> <p>10 agreement to not erect lights on the athletic field</p> <p>11 or to not host night games on the athletic field?</p> <p>12 MR. JEAN-LOUIS: Objection, form.</p> <p>13 THE WITNESS: I do not see anything.</p> <p>14 BY MR. INGRISANO:</p> <p>15 Q. Going back to Exhibit 163, sir. That is the Susan</p> <p>16 Serrault email.</p> <p>17 A. Yup. Um-hum.</p> <p>18 Q. Do you have any recollection of asking Susan Serrault</p> <p>19 to reach out to Edgewood High School or Judge</p> <p>20 Schemmel to verify the use of the spaces on -- at 1</p> <p>21 and 2 on the map?</p> <p>22 A. I do not remember this, but during the process we</p> <p>23 wanted feedback from them and would put together</p> <p>24 documents like this to get that. And Susan helped to</p> <p>25 facilitate that.</p>	<p style="text-align: right;">Page 61</p> <p>1 conditioning programs."</p> <p>2 Did I read that correctly?</p> <p>3 A. Yes.</p> <p>4 Q. Sir, in looking at Exhibit 164 and Mr. Schemmel's</p> <p>5 description of how location No. 1 is used, and you</p> <p>6 recognize location No. 1 is the Edgewood High School</p> <p>7 athletic field?</p> <p>8 A. Yes.</p> <p>9 Q. Do you have any understanding, sir, as to why Mr.</p> <p>10 Schemmel's description of the use of location No. 1</p> <p>11 does not match the description of the use of location</p> <p>12 1 at section 3.8 of the master plan?</p> <p>13 A. I believe our intent in the description of the open</p> <p>14 space was not to necessarily include and determine</p> <p>15 all the uses of that space in that chapter. The idea</p> <p>16 was more to identify open space.</p> <p>17 Q. Do you recall making a conscious decision, or do you</p> <p>18 remember anyone making a conscious decision to not</p> <p>19 include that language?</p> <p>20 MR. JEAN-LOUIS: Objection to form.</p> <p>21 THE WITNESS: I do not recall that.</p> <p>22 BY MR. INGRISANO:</p> <p>23 Q. Do you recall anyone from Edgewood High School</p> <p>24 telling you to intentionally restrict or limit the</p> <p>25 description of the athletic field under 3.8 and</p>

<p style="text-align: right;">Page 62</p> <p>1 bullet point 1?</p> <p>2 A. I do not.</p> <p>3 MR. JEAN-LOUIS: Objection, form.</p> <p>4 BY MR. INGRISANO:</p> <p>5 Q. Did anyone at Edgewood High School ever tell you that</p> <p>6 they didn't want to reference games in the master</p> <p>7 plan because it would be harder to get neighborhood</p> <p>8 approval?</p> <p>9 A. No.</p> <p>10 MR. JEAN-LOUIS: Objection, form.</p> <p>11 BY MR. INGRISANO:</p> <p>12 Q. Did anyone at Edgewood College ever tell you hey,</p> <p>13 don't -- let's not reference games on 3.8 because we</p> <p>14 don't want to make it harder to get this passed?</p> <p>15 A. No.</p> <p>16 MR. JEAN-LOUIS: Objection, form.</p> <p>17 (Exhibit 54 previously marked.)</p> <p>18 BY MR. INGRISANO:</p> <p>19 Q. Sir, I'm handing you what's been marked previously as</p> <p>20 Exhibit 54. It's an email and attachment. Have you</p> <p>21 ever seen this document before?</p> <p>22 (Witness peruses document.)</p> <p>23 BY MR. INGRISANO:</p> <p>24 Q. Or the attachment?</p> <p>25 A. I don't specifically recall. I don't remember if I</p>	<p style="text-align: right;">Page 64</p> <p>1 A. Correct.</p> <p>2 Q. All right. So now flip the page, there is a -- can</p> <p>3 you read No. 1 out loud, please?</p> <p>4 A. "No. 1, athletic field owned by Edgewood High School</p> <p>5 used for team practices, physical education classes</p> <p>6 and other generally light uses."</p> <p>7 Q. Okay. Now, looking at the language in No. 1 on this</p> <p>8 document and compare it to 3.8 of the master plan,</p> <p>9 would you agree with me, sir, that the phrase "and</p> <p>10 other generally light uses" appears on Exhibit 54 but</p> <p>11 not in the master plan?</p> <p>12 A. Correct.</p> <p>13 Q. And do you have any understanding of how the language</p> <p>14 in Exhibit 54 "and other generally light uses" came</p> <p>15 into being?</p> <p>16 A. I do not other than potentially Ed Taylor adding it</p> <p>17 in.</p> <p>18 Q. Okay. And do you have any understanding, sir, as to</p> <p>19 where that language went and why it's not in the</p> <p>20 final 3.8?</p> <p>21 A. I don't. I do not.</p> <p>22 Q. All right.</p> <p>23 A. I could guess but I don't recall.</p> <p>24 Q. What would the guess be based on, sir?</p> <p>25 A. It's just a vague term that doesn't seem to add much</p>
<p style="text-align: right;">Page 63</p> <p>1 have or not. But it would seem like I have seen it</p> <p>2 as we were using, getting information to put into the</p> <p>3 master plan.</p> <p>4 Q. This is an email dated December 5, 2013, correct?</p> <p>5 A. Correct.</p> <p>6 Q. And you recognize that as a Maggie Balistreri's email</p> <p>7 address?</p> <p>8 A. Yes.</p> <p>9 Q. And in this email she is asking Sister Kathleen</p> <p>10 Malone, looks like Mike Elliott and Scott Flanagan to</p> <p>11 contact Ed Taylor with corrections to chapter 1</p> <p>12 through 3, correct?</p> <p>13 A. Correct.</p> <p>14 Q. And that comports with your recollection from the</p> <p>15 table of contents to-do that Ed Taylor became</p> <p>16 involved with helping with content on -- at least on</p> <p>17 chapter 3, correct?</p> <p>18 MR. JEAN-LOUIS: Objection, form.</p> <p>19 THE WITNESS: Yes.</p> <p>20 BY MR. INGRISANO:</p> <p>21 Q. Let me ask you on the attachment, sir, to look at the</p> <p>22 page ending at the bottom right-hand corner EHS 1840.</p> <p>23 Actually, if you look at the page beforehand, 1839,</p> <p>24 the bottom of that page there is a subsection heading</p> <p>25 open space plan-landscaping and green, correct?</p>	<p style="text-align: right;">Page 65</p> <p>1 to the description.</p> <p>2 Q. Okay. But you don't recall having any conversation</p> <p>3 with anyone at Edgewood High School or Edgewood</p> <p>4 College about that language?</p> <p>5 A. No.</p> <p>6 (Exhibit 45 previously marked.)</p> <p>7 BY MR. INGRISANO:</p> <p>8 Q. Sir, I'm going to hand you what's been marked</p> <p>9 previously as Exhibit 45 in this case. The top email</p> <p>10 is an internal email or it's an email from Michael</p> <p>11 Elliott to an attorney at Foley and Lardner, but</p> <p>12 below that is an October 26, 2018 email from Matthew</p> <p>13 Tucker of the City of Madison. Have you ever seen</p> <p>14 that email before?</p> <p>15 A. Not that I recall.</p> <p>16 Q. Can I ask you to please read the second paragraph of</p> <p>17 Mr. Tucker's email.</p> <p>18 A. That begins with "after the neighborhood?"</p> <p>19 Q. Yes.</p> <p>20 A. "After the neighborhood meeting of Wednesday" --</p> <p>21 Q. I'm sorry, to yourself.</p> <p>22 A. I'm sorry.</p> <p>23 (Witness peruses document.)</p> <p>24 THE WITNESS: Okay.</p> <p>25 BY MR. INGRISANO:</p>

<p style="text-align: right;">Page 66</p> <p>1 Q. Sir, in dealing with the City of Madison, had anyone 2 ever advised you that the master plan could be 3 interpreted to limit or curtail uses of open spaces 4 not identified in the master plan? 5 MR. JEAN-LOUIS: Objection, form, 6 foundation. 7 THE WITNESS: No. 8 (Exhibit 165 previously marked.) 9 BY MR. INGRISANO: 10 Q. Mr. Hursh, handing you what's been marked previously 11 as Exhibit 165. Do you recognize that, sir, as a 12 letter you drafted and signed? 13 A. Yes. 14 MR. JEAN-LOUIS: Objection, form. 15 BY MR. INGRISANO: 16 Q. Dated January 2, 2019 to Brian Munson, correct? 17 A. Correct. 18 Q. Can you read the first line of that letter out loud. 19 A. "In 2014 I helped lead the process of updating the 20 Edgewood Campus master plan and which was needed in 21 order to rezone the campus to campus institutional 22 zoning." 23 Q. Thank you. And that accurately reflects your role in 24 updating the campus master plan? 25 A. Yes.</p>	<p style="text-align: right;">Page 68</p> <p>1 foundation. 2 THE WITNESS: A master plan is sort of 3 looking at the ideas for future uses on the site 4 given the time of putting the master plan together. 5 So to expect the master plan to be all-inclusive for 6 eternity, identifying all uses would be hard to do. 7 The master plan should be a fluid document that can 8 be updated when the different uses are anticipated. 9 BY MR. INGRISANO: 10 Q. Did anyone from the City of Madison ever tell you or 11 to your knowledge tell any of the Edgewood 12 institutions that all uses for open spaces or for 13 facilities had to be included in the master plan? 14 A. No. 15 MR. JEAN-LOUIS: Objection, form. 16 (Exhibit 166 previously marked.) 17 BY MR. INGRISANO: 18 Q. Mr. Hursh, handing you what's been previously marked 19 as Exhibit 166. Do you see that is also a letter 20 drafted and signed by you; is that correct? 21 A. Yes. 22 Q. Dated January 4, 2019? 23 A. Correct. 24 Q. This is two days after Exhibit 165, correct? 25 A. Correct.</p>
<p style="text-align: right;">Page 67</p> <p>1 MR. JEAN-LOUIS: Objection, form. 2 BY MR. INGRISANO: 3 Q. And again, it was your understanding that the master 4 plan was needed in order to rezone to campus 5 institutional, right? 6 A. Correct. 7 Q. Let me ask you to read that last paragraph to 8 yourself. 9 (Witness peruses document.) 10 THE WITNESS: Okay. 11 BY MR. INGRISANO: 12 Q. Does that paragraph, sir, that you wrote to Mr. 13 Munson accurately reflect your thoughts and 14 conclusions about the master plan interpretation 15 based on your experience in its drafting and 16 preparation? 17 MR. JEAN-LOUIS: Objection, form. 18 THE WITNESS: Yes, I agree. 19 BY MR. INGRISANO: 20 Q. Given your experience and profession in master 21 planning at Potter Lawson, if a master plan required 22 every use of a space to be articulated, what kind of 23 burden would that place, if any, on the process of 24 creating a master plan? 25 MR. JEAN-LOUIS: Objection, form,</p>	<p style="text-align: right;">Page 69</p> <p>1 Q. Do you know were both of these letters, were either 2 or both of these letters actually sent to Brian 3 Munson? 4 A. I don't recall -- I wouldn't know which one was sent 5 honestly. 6 Q. Do you think one is an earlier draft of the other? 7 A. Yes. 8 Q. Looking at the second paragraph of 166, would you 9 read that to yourself. 10 (Witness peruses document.) 11 THE WITNESS: Okay. 12 BY MR. INGRISANO: 13 Q. In this Exhibit 166 you refer to not listing all 14 current uses of the field as an oversight, do you see 15 that? 16 A. Yes. 17 Q. What makes you say that? What made you say that? 18 A. I am guessing because of the way the City had 19 interpreted the document, to restrict uses if we 20 didn't include them, that we should include them if 21 that's the way the City was interpreting it. 22 Q. Now -- 23 A. Specifically Matt Tucker from zoning. 24 Q. Sure. Had you changed your mind from Exhibit 165 25 that it was a misinterpretation, or is that still</p>

<p style="text-align: right;">Page 70</p> <p>1 your opinion at that time?</p> <p>2 MR. JEAN-LOUIS: Objection, form,</p> <p>3 foundation.</p> <p>4 THE WITNESS: 65, I think they're -- they</p> <p>5 are both accurate.</p> <p>6 BY MR. INGRISANO:</p> <p>7 Q. Okay. Both the letters, 165 and 166 --</p> <p>8 A. Yes.</p> <p>9 Q. -- express your feelings?</p> <p>10 A. Yes.</p> <p>11 (Exhibit 167 previously marked.)</p> <p>12 BY MR. INGRISANO:</p> <p>13 Q. Sir, Exhibit 167 previously marked. This is a letter</p> <p>14 signed by you to Alder Tag Evers, correct?</p> <p>15 A. Correct.</p> <p>16 Q. And you recall drafting and signing this document?</p> <p>17 A. Yes.</p> <p>18 Q. And why don't you take a moment to read that to</p> <p>19 yourself, and let me ask if that document properly</p> <p>20 reflects your sentiments on the uses of the athletic</p> <p>21 field.</p> <p>22 (Witness peruses document.)</p> <p>23 THE WITNESS: Okay.</p> <p>24 BY MR. INGRISANO:</p> <p>25 Q. Does that letter accurately reflect your impressions</p>	<p style="text-align: right;">Page 72</p> <p>1 meant to do in 2013 and 2014 was based at least in</p> <p>2 part on what the City told you, correct?</p> <p>3 MR. JEAN-LOUIS: Objection, form.</p> <p>4 THE WITNESS: Yes.</p> <p>5 BY MR. INGRISANO:</p> <p>6 Q. Was it based on anything else other than your</p> <p>7 understanding from the City?</p> <p>8 A. I mean the master plan was sort of based on our</p> <p>9 experience in putting master plans together as well</p> <p>10 as input from the City as to what was required.</p> <p>11 Q. So as far as what was required and what kind of the</p> <p>12 plan was for a master plan, you drew upon what the</p> <p>13 City was telling you and your own experiences?</p> <p>14 A. Correct.</p> <p>15 MR. JEAN-LOUIS: Objection, form.</p> <p>16 BY MR. INGRISANO:</p> <p>17 Q. Let me ask you to go back to Exhibit 171. That's Mr.</p> <p>18 Elliott's declaration.</p> <p>19 A. Okay.</p> <p>20 Q. Let me ask you to turn to page 7 of that document.</p> <p>21 A. Okay.</p> <p>22 Q. Paragraph 28. "At no time did anyone from Edgewood</p> <p>23 College EHS or the City inform me that the master</p> <p>24 plan would operate or would be interpreted to</p> <p>25 restrict permissible uses of EHS's property that were</p>
<p style="text-align: right;">Page 71</p> <p>1 and conclusions on the issue of the use of the</p> <p>2 athletic field?</p> <p>3 A. It does.</p> <p>4 MR. JEAN-LOUIS: Objection, form.</p> <p>5 BY MR. INGRISANO:</p> <p>6 Q. In all three of these letters, 166 -- I'm sorry, 165,</p> <p>7 166, 167, do you believe all three of these letters</p> <p>8 correctly reflect your understanding in 2013 and 2014</p> <p>9 as to the purpose and intent of the master plan</p> <p>10 document?</p> <p>11 MR. JEAN-LOUIS: Objection, form.</p> <p>12 THE WITNESS: Yes. I would say yes. I</p> <p>13 think the one line that I don't like is where we</p> <p>14 said the fact that we do not list all current uses</p> <p>15 of the field is an oversight. I don't like that</p> <p>16 line as much.</p> <p>17 BY MR. INGRISANO:</p> <p>18 Q. Why not?</p> <p>19 A. Because I felt when we created the master plan, it</p> <p>20 wasn't meant to restrict or change the uses of the</p> <p>21 fields.</p> <p>22 Q. Okay.</p> <p>23 A. And it wasn't meant to, you know, list absolutely</p> <p>24 every activity that occurred there.</p> <p>25 Q. And your understanding of what the master plan was</p>	<p style="text-align: right;">Page 73</p> <p>1 not identified or not identified with a certain</p> <p>2 specificity."</p> <p>3 Did I read that correctly?</p> <p>4 A. Yes.</p> <p>5 Q. Do you have any reason to disagree with that, that</p> <p>6 someone did in fact inform Mr. Elliott of that</p> <p>7 interpretation?</p> <p>8 MR. JEAN-LOUIS: Objection, form and</p> <p>9 foundation.</p> <p>10 THE WITNESS: I don't disagree with this</p> <p>11 statement.</p> <p>12 BY MR. INGRISANO:</p> <p>13 Q. So to your knowledge no one ever would have told him</p> <p>14 or ever did tell him about that restrictive</p> <p>15 interpretation?</p> <p>16 MR. JEAN-LOUIS: Same objections.</p> <p>17 THE WITNESS: I agree.</p> <p>18 BY MR. INGRISANO:</p> <p>19 Q. He goes on to testify, "no one expressed that EHS's</p> <p>20 field usage would be limited going forward."</p> <p>21 Do you see that?</p> <p>22 A. Yes.</p> <p>23 Q. And did you ever hear anyone express a limitation on</p> <p>24 field usage?</p> <p>25 MR. JEAN-LOUIS: Objection, form.</p>

<p style="text-align: right;">Page 74</p> <p>1 THE WITNESS: No.</p> <p>2 BY MR. INGRISANO:</p> <p>3 Q. Were you on campus ever as a part of this process in</p> <p>4 2013, 2014?</p> <p>5 A. Yes.</p> <p>6 Q. Did you ever observe No. 1, the athletic field on the</p> <p>7 Edgewood High School campus, in use?</p> <p>8 A. I'm sure I did. I used to live in the Dudgeon Monroe</p> <p>9 neighborhood and would drive by the fields often.</p> <p>10 Q. When did you live in that neighborhood?</p> <p>11 A. I lived in that neighborhood from 1990 to 2010.</p> <p>12 Q. Did you ever observe games or athletic contests being</p> <p>13 played on that field during your time living in that</p> <p>14 neighborhood?</p> <p>15 A. Yes, yes.</p> <p>16 Q. Do you recall what kind of games?</p> <p>17 A. Football games, soccer games.</p> <p>18 Q. How far did you live, if you were to approximate, how</p> <p>19 far did you live from the Edgewood field when you</p> <p>20 lived there?</p> <p>21 A. Fairly far as far as the neighborhood goes. I was</p> <p>22 all the way to the west. So maybe a few miles.</p> <p>23 Q. Were you familiar or were you aware of while you</p> <p>24 lived in that neighborhood any neighbors who</p> <p>25 complained about the fact that Edgewood was playing</p>	<p style="text-align: right;">Page 76</p> <p>1 that he was willing to sacrifice some of the uses of</p> <p>2 the field?</p> <p>3 MR. JEAN-LOUIS: Objection, form,</p> <p>4 foundation.</p> <p>5 THE WITNESS: I did not.</p> <p>6 BY MR. INGRISANO:</p> <p>7 Q. Next page, paragraph 32. He writes "instead, I</p> <p>8 believe the athletic field was fairly described by</p> <p>9 calling it an 'athletic field' and would be used as</p> <p>10 such. I understood that 'team practices' and</p> <p>11 'physical education classes' were listed as examples,</p> <p>12 not limitations."</p> <p>13 Do you see that?</p> <p>14 A. Yes.</p> <p>15 Q. Did you share that same understanding?</p> <p>16 A. Yes.</p> <p>17 MR. JEAN-LOUIS: Objection, form.</p> <p>18 BY MR. INGRISANO:</p> <p>19 Q. Were you involved at all with Edgewood College's</p> <p>20 process under the master plan involving the</p> <p>21 architectural review committee?</p> <p>22 MR. JEAN-LOUIS: Objection, form.</p> <p>23 THE WITNESS: Can you repeat that?</p> <p>24 MR. INGRISANO: Sure.</p> <p>25 BY MR. INGRISANO:</p>
<p style="text-align: right;">Page 75</p> <p>1 games on its field?</p> <p>2 A. No.</p> <p>3 Q. Paragraph 29, sir, second sentence. Mr. Elliott</p> <p>4 testifies "I did not intend to limit the use of EHS's</p> <p>5 athletic field to team practices or physical</p> <p>6 educations practices."</p> <p>7 Do you see that?</p> <p>8 A. Yes.</p> <p>9 Q. Did you ever hear him express a contrary intent?</p> <p>10 A. No.</p> <p>11 MR. JEAN-LOUIS: Objection to form.</p> <p>12 BY MR. INGRISANO:</p> <p>13 Q. It goes on to say "at the time of signing, I</p> <p>14 understood that EHS as a campus institutional zoned</p> <p>15 institution had the full use of its field as a sports</p> <p>16 and recreational facility or stadium under the zoning</p> <p>17 ordinance."</p> <p>18 Do you see that?</p> <p>19 A. Yes.</p> <p>20 Q. It says "I did not intend to give that up in signing</p> <p>21 the master plan and did not anticipate the City's</p> <p>22 interpretation in 2018."</p> <p>23 Do you see that?</p> <p>24 A. Yes.</p> <p>25 Q. Again, do you ever hear him express a contrary intent</p>	<p style="text-align: right;">Page 77</p> <p>1 Q. Did you assist Edgewood College with any of its</p> <p>2 projects after the master plan was formalized where</p> <p>3 that process now in the master plan involved the</p> <p>4 architectural design review committee?</p> <p>5 MR. JEAN-LOUIS: Objection, form.</p> <p>6 THE WITNESS: No.</p> <p>7 MR. INGRISANO: I've got no further</p> <p>8 questions. Do you want to switch seats?</p> <p>9 MS. ZYLSTRA: Sure, I think that's okay.</p> <p>10 Can we take just a five minute break?</p> <p>11 (Recess taken.)</p> <p>12 EXAMINATION</p> <p>13 BY MR. JEAN-LOUIS:</p> <p>14 Q. Could I have you please take a look at Exhibit 165</p> <p>15 that you looked at previously which is a letter or a</p> <p>16 draft of a letter dated January 2nd, 2019.</p> <p>17 A. Yes.</p> <p>18 Q. Had you testified earlier that you believed that</p> <p>19 Exhibit 165 was an earlier draft of Exhibit 166?</p> <p>20 A. I am guessing yes.</p> <p>21 Q. If you could look at the last paragraph on Exhibit</p> <p>22 165. The first sentence of that paragraph, first</p> <p>23 clause says "the document does not discuss the use of</p> <p>24 the athletic field."</p> <p>25 Did I read that correctly?</p>

<p style="text-align: right;">Page 78</p> <p>1 A. Yes.</p> <p>2 Q. Does the document indeed, the document assuming</p> <p>3 that's the master plan, does the master plan describe</p> <p>4 certain uses of the athletic field?</p> <p>5 MR. INGRISANO: Objection, form,</p> <p>6 argumentative. Go ahead.</p> <p>7 THE WITNESS: It does.</p> <p>8 BY MR. JEAN-LOUIS:</p> <p>9 Q. And what use does the document list?</p> <p>10 A. What does the document list in the master plan?</p> <p>11 Q. Yes.</p> <p>12 A. Practice fields -- I'm trying to remember.</p> <p>13 Q. You can take a look at I believe page 60 of 228.</p> <p>14 A. Practice fields and athletic education -- team</p> <p>15 practices, physical education classes.</p> <p>16 Q. Okay. So the second clause in the first sentence of</p> <p>17 the last paragraph of Exhibit 165 says, "we did not</p> <p>18 specify any type of use or nonuse of the athletic</p> <p>19 fields that are being discussed now."</p> <p>20 Do you see that?</p> <p>21 A. Yes.</p> <p>22 Q. Do you agree that it's not true that the master plan</p> <p>23 did not describe any type of use of the athletic</p> <p>24 fields?</p> <p>25 MR. INGRISANO: Objection, form,</p>	<p style="text-align: right;">Page 80</p> <p>1 the uses of the field with the neighborhood?</p> <p>2 MR. INGRISANO: Objection, form.</p> <p>3 THE WITNESS: Yes.</p> <p>4 BY MR. JEAN-LOUIS:</p> <p>5 Q. And do you agree that you also did not discuss the</p> <p>6 uses of the field with the City?</p> <p>7 A. I -- yup, as far as I can recall.</p> <p>8 Q. But to the extent it says you did not discuss the</p> <p>9 uses with the Edgewood institutions, would you agree</p> <p>10 that that's not strictly accurate because they were</p> <p>11 discussed in Exhibit 163 and 164?</p> <p>12 MR. INGRISANO: Objection, form,</p> <p>13 argumentative.</p> <p>14 THE WITNESS: Yeah, I agree.</p> <p>15 BY MR. JEAN-LOUIS:</p> <p>16 Q. You say it was assumed that the fields would continue</p> <p>17 to be used for athletic games and events.</p> <p>18 Who assumed? What did you mean by that</p> <p>19 sentence?</p> <p>20 A. Is this 165?</p> <p>21 Q. Yes, 165, I'm sorry.</p> <p>22 A. We assumed that. In all of our dealings with the</p> <p>23 process, we did not assume that the uses on the field</p> <p>24 would change. That was our assumption during the</p> <p>25 process in working with Edgewood and the other</p>
<p style="text-align: right;">Page 79</p> <p>1 argumentative.</p> <p>2 THE WITNESS: I agree that it describes</p> <p>3 uses, but our intent was not to limit or describe</p> <p>4 all uses of the fields in that open space plan</p> <p>5 portion of the master plan.</p> <p>6 BY MR. JEAN-LOUIS:</p> <p>7 Q. The next sentence says "because the master plan did</p> <p>8 not include physical facility changes to the field,</p> <p>9 we did not focus on the fields or spend time</p> <p>10 discussing the uses of the fields with the</p> <p>11 neighborhood, the City or the Edgewood institutions."</p> <p>12 Did I read that correctly?</p> <p>13 A. Yes.</p> <p>14 Q. And if you turn to what was previously marked and</p> <p>15 discussed today as Exhibit 163 and Exhibit 164.</p> <p>16 A. Okay.</p> <p>17 Q. Do you agree that Susan Serrault was discussing the</p> <p>18 uses of the athletic field and that you were copied</p> <p>19 on those emails?</p> <p>20 A. Yes.</p> <p>21 Q. And do you agree that the information that's being</p> <p>22 provided to Susan Serrault is coming from a</p> <p>23 representative of the high school?</p> <p>24 A. Yes.</p> <p>25 Q. Do you believe it is true that you did not discuss</p>	<p style="text-align: right;">Page 81</p> <p>1 institutions along with the City as well. I think</p> <p>2 the master plan -- our focus on the master plan was</p> <p>3 mostly new buildings and how they might be physically</p> <p>4 located on the site. Like I said, there wasn't any</p> <p>5 changes to the field, so we didn't focus on that.</p> <p>6 Q. Okay. And then the last sentence says "to say that</p> <p>7 the master plan document says it is illegal to play</p> <p>8 games on the athletic field because it is not</p> <p>9 mentioned in the document is a misinterpretation of</p> <p>10 the document."</p> <p>11 Did I read that correctly?</p> <p>12 A. Yes.</p> <p>13 Q. Is it true that that sentence does not appear on</p> <p>14 Exhibit 166?</p> <p>15 A. Yes.</p> <p>16 Q. In Exhibit 166, the last paragraph starts, "the</p> <p>17 document did not focus on the specific uses of the</p> <p>18 athletic field, the field is only mentioned in the</p> <p>19 open spaces section."</p> <p>20 Did I read that correctly?</p> <p>21 A. Yes.</p> <p>22 Q. Do you believe that this sentence is more accurate</p> <p>23 than the sentence in 1 -- the first sentence of the</p> <p>24 last paragraph in 165?</p> <p>25 MR. INGRISANO: Objection, form.</p>

<p style="text-align: right;">Page 82</p> <p>1 THE WITNESS: More accurate? I feel like</p> <p>2 they're both accurate.</p> <p>3 BY MR. INGRISANO:</p> <p>4 Q. The last sentence says "the fact that we did not list</p> <p>5 all current uses of the field is an oversight on our</p> <p>6 part and should be corrected to include all future</p> <p>7 uses."</p> <p>8 MR. INGRISANO: Objection.</p> <p>9 BY MR. JEAN-LOUIS:</p> <p>10 Q. Did I read that correctly?</p> <p>11 A. Yup.</p> <p>12 MR. INGRISANO: Objection,</p> <p>13 mischaracterizes.</p> <p>14 THE WITNESS: Yup.</p> <p>15 BY MR. JEAN-LOUIS:</p> <p>16 Q. Who did you mean by our part?</p> <p>17 A. Potter Lawson and others writing the master plan.</p> <p>18 Q. And when you said "should be corrected to include all</p> <p>19 the current uses," what did you mean by that?</p> <p>20 A. I guess we were writing that because of how it was</p> <p>21 being interpreted by the City and the neighborhood</p> <p>22 as, you know, the fact that we were trying to -- that</p> <p>23 we didn't mention all the uses that the City and the</p> <p>24 neighbors were using that sort of against the high</p> <p>25 school. We felt that because of that interpretation</p>	<p style="text-align: right;">Page 84</p> <p>1 A. Sure.</p> <p>2 Q. Do you know what section of the master plan that</p> <p>3 section that you were just speaking of is?</p> <p>4 A. It's -- I think it's towards the end. I think under</p> <p>5 4.5, process for approvals. Page 53. I don't know</p> <p>6 exactly where it is.</p> <p>7 Q. Okay. Let me see if I can find it. I believe the</p> <p>8 process for approvals section 4.5 is on page 81 of</p> <p>9 228.</p> <p>10 MR. INGRISANO: What page, Counsel?</p> <p>11 MR. JEAN-LOUIS: Page 81 of 228.</p> <p>12 THE WITNESS: Yeah, I don't see anything</p> <p>13 there as far as updating the master plan. I believe</p> <p>14 this was more about when a project actually went</p> <p>15 ahead that there -- this would be the process for</p> <p>16 approval.</p> <p>17 BY MR. JEAN-LOUIS:</p> <p>18 Q. Okay.</p> <p>19 A. But I know there is something, I mean, in here that</p> <p>20 does state that the master plan can be modified.</p> <p>21 Q. If you could turn to page 10 of 228.</p> <p>22 A. Yes.</p> <p>23 Q. Do you see the paragraph numbered paragraph 3?</p> <p>24 A. Yes.</p> <p>25 Q. Could you read that paragraph to yourself.</p>
<p style="text-align: right;">Page 83</p> <p>1 of the document that if we could go back and write</p> <p>2 all the uses down, we would have.</p> <p>3 Q. Turn to Exhibit 167.</p> <p>4 A. Yup.</p> <p>5 Q. The last sentence of this document says "the master</p> <p>6 plan was meant to be a fluid document that could be</p> <p>7 modified over time as needs of the institution change</p> <p>8 with input from the City, the neighbors and the three</p> <p>9 Edgewood institutions."</p> <p>10 Did I read that correctly?</p> <p>11 A. Yes.</p> <p>12 Q. What did you mean that the master plan was meant to</p> <p>13 be a fluid document that could be modified over time?</p> <p>14 A. There is a segment of the master plan that talks</p> <p>15 about how it could be changed. So if there is ever a</p> <p>16 need to make changes to it, that the process would be</p> <p>17 similar to the writing of the master plan and that</p> <p>18 you would meet with the neighborhood, you would meet</p> <p>19 with the other institutions, you would meet with the</p> <p>20 City, you would potentially, you know, propose the</p> <p>21 changes and then work with the City to update the</p> <p>22 master plan based on any types of different uses or</p> <p>23 any changes to the master plan.</p> <p>24 Q. Okay. Any changes to the master plan including</p> <p>25 changes of use; is that correct?</p>	<p style="text-align: right;">Page 85</p> <p>1 A. Yes.</p> <p>2 (Witness peruses document.)</p> <p>3 THE WITNESS: Yes.</p> <p>4 BY MR. JEAN-LOUIS:</p> <p>5 Q. Is that the portion of the master plan that you were</p> <p>6 thinking of?</p> <p>7 MR. INGRISANO: Objection, form.</p> <p>8 THE WITNESS: It's similar, yes. I mean</p> <p>9 this was a letter from the City planning department</p> <p>10 letting us know that if you needed to make an</p> <p>11 alteration to the plan, there was a process for it.</p> <p>12 BY MR. JEAN-LOUIS:</p> <p>13 Q. Okay.</p> <p>14 A. And I thought it was -- I thought we actually wrote</p> <p>15 what, you know, based on what the City had added, we</p> <p>16 wrote that into the plan, but I don't know where that</p> <p>17 is.</p> <p>18 Q. Do you think that what you may have written into the</p> <p>19 plan was substantially similar to or was identical to</p> <p>20 this language?</p> <p>21 MR. INGRISANO: I'm sorry, can you read</p> <p>22 that back?</p> <p>23 (Record read.)</p> <p>24 MR. INGRISANO: Objection, form.</p> <p>25 THE WITNESS: I think it may have been</p>

<p style="text-align: right;">Page 86</p> <p>1 similar. The only thing I see here is -- well, they 2 say including changes to the proposed use identified 3 open space areas and other space uses. It doesn't 4 mention our -- you know, the main document that we 5 focused on was a drawing that showed building 6 additions. They don't reference that specifically. 7 But it does say including changes to proposed use 8 or -- so I would assume that it included that. But 9 I would think the process, you know, to change 10 anything in the master plan would be based on this. 11 (Exhibit 13 previously marked.) 12 BY MR. JEAN-LOUIS: 13 Q. Okay. I'm handing you what has been previously 14 marked as Exhibit 13. Can you take a look at this 15 document and tell me if you are familiar with it? 16 A. Yes. 17 Q. What is this document? 18 A. It's the zoning document for the campus institutional 19 district. 20 Q. And what do you mean by zoning document? 21 A. Or zoning ordinance. 22 Q. Did you familiarize yourself with this ordinance 23 while you were working on the Edgewood master plan? 24 A. Yes. 25 MR. INGRISANO: Objection, form, vague as</p>	<p style="text-align: right;">Page 88</p> <p>1 do you see that? 2 A. Yes. 3 Q. Do you see in (1) within (c) -- well, I'll start with 4 (c), it says "facilities plan includes description of 5 existing conditions on the campus, the proposed 6 conditions under the master plan." 7 Do you see that? 8 A. Yes. 9 Q. Let me back up a little bit. Section -- paragraph 5 10 is called contents of the master plan if you turn a 11 page back, do you see that? 12 A. Yes. 13 Q. And do you see where it says the master plan shall 14 include the following elements and information? 15 A. Yes. 16 Q. And going back now to (c), do you see under existing 17 conditions that that includes land uses and 18 buildings? 19 A. Yes. 20 Q. Do you see under proposed conditions that it says 21 future land uses and buildings? 22 A. Yes. 23 Q. Do you see where it also says open space areas or 24 other open space uses? 25 A. Yes.</p>
<p style="text-align: right;">Page 87</p> <p>1 to time. This document is the amended ordinance. 2 It was not in place in 2013, 2014. 3 BY MR. JEAN-LOUIS: 4 Q. Did you familiarize yourself with the ordinance that 5 was in place under the name 28.097 at the time that 6 you were working on the Edgewood master plan? 7 A. Yes. 8 Q. Could you go to paragraph 10 of this ordinance. 9 A. Yes. 10 Q. Could you read that to yourself, please. 11 (Witness peruses document.) 12 THE WITNESS: Okay. 13 BY MR. JEAN-LOUIS: 14 Q. Do you agree that paragraph 10 of this ordinance is 15 the same language that appears on paragraph 3 of page 16 10 of 228 of the master plan? 17 A. Yes. 18 Q. And does it include the same language that "no 19 alteration of an approved campus master plan 20 including changes to the proposed use of identified 21 open space areas or of our open space uses shall be 22 permitted unless approved by the plan commission," 23 and it continues from there; is that correct? 24 A. Yes. 25 Q. If you turn back to paragraph 5(c), facilities plan,</p>	<p style="text-align: right;">Page 89</p> <p>1 Q. Do you understand that these are requirements of 2 inclusion in a CI district master plan? 3 A. Yes. 4 Q. Based off of section -- paragraph 10, would it be 5 your understanding that if they change any of the 6 changes to proposed uses of open spaces that are 7 identified in the master plan if the use were to 8 deviate or change from the proposed use that an 9 amendment would be necessary? 10 MR. INGRISANO: Objection, form, 11 incomplete hypothetical, calls for a legal 12 conclusion. 13 THE WITNESS: Yes. Can I ask if this 14 section is -- this is the current zoning ordinance? 15 MR. JEAN-LOUIS: I will represent to you 16 that the entire ordinance is the amended version of 17 the ordinance, but it is my understanding that there 18 has not been any changes to section -- to paragraph 19 5 or paragraph 10. 20 THE WITNESS: Okay. 21 (Exhibit 153 previously marked.) 22 BY MR. JEAN-LOUIS: 23 Q. I'm handing you what's been previously marked as 24 Exhibit 153. Do you recognize this email chain? 25 A. Yes.</p>

<p style="text-align: right;">Page 90</p> <p>1 Q. And are you included on this email chain?</p> <p>2 A. Yes.</p> <p>3 Q. Do you recall receiving this email from Maggie?</p> <p>4 A. I don't recall but I wouldn't dispute it.</p> <p>5 Q. Could you read what follows No. 2 in Maggie's email</p> <p>6 at the bottom, and you can read it out loud?</p> <p>7 A. "He plans to propose a resurfacing of the football</p> <p>8 field and track at the liaison committee tomorrow.</p> <p>9 They would also love to put in some lights and</p> <p>10 bleachers to have home games, just when we thought it</p> <p>11 was safe."</p> <p>12 Q. And could you continue reading?</p> <p>13 A. Sure. "Do you know what the new process is for them</p> <p>14 to be able to resurface their football field. Should</p> <p>15 we put the architectural design review committee</p> <p>16 together to navigate the lights and bleachers</p> <p>17 project? Should I call Matt Tucker to check in about</p> <p>18 this? If so, do you have his number?"</p> <p>19 Q. Thank you. And above do you want to -- could you</p> <p>20 read the response?</p> <p>21 A. Sure. "No. 1, I don't know what the process would be</p> <p>22 to get approvals to resurface the football field.</p> <p>23 The resurfacing could be considered maintenance but</p> <p>24 the lights and bleachers would be additions."</p> <p>25 Q. Okay. And what did you mean by the lights and</p>	<p style="text-align: right;">Page 92</p> <p>1 would have triggered a master plan amendment,</p> <p>2 correct?</p> <p>3 A. Yes.</p> <p>4 MR. INGRISANO: Objection, form. Mr.</p> <p>5 Hursh, if you can just give me a pause before you</p> <p>6 answer so I can get my objection in, okay?</p> <p>7 THE WITNESS: Sure.</p> <p>8 MR. INGRISANO: Thank you.</p> <p>9 BY MR. JEAN-LOUIS:</p> <p>10 Q. Did you -- you had mentioned before that you were</p> <p>11 retained by the high school to work on the Stream</p> <p>12 project; is that correct?</p> <p>13 A. On the high school it was the performing arts.</p> <p>14 Q. The performing arts center. Okay. Were you also or</p> <p>15 was Potter Lawson also retained to work on any</p> <p>16 amendments to the master plan?</p> <p>17 A. Yes.</p> <p>18 Q. And what amendment was that?</p> <p>19 A. It was amendment to add additional parking at the</p> <p>20 high school parking lot.</p> <p>21 Q. Okay. And do you know whether that amendment was</p> <p>22 granted?</p> <p>23 A. Yes.</p> <p>24 Q. When did -- who was your contact at the high school</p> <p>25 for that project?</p>
<p style="text-align: right;">Page 91</p> <p>1 bleachers would be additions?</p> <p>2 A. Physical additions to the facilities versus a</p> <p>3 maintenance project.</p> <p>4 Q. Okay. Could you read the next paragraph for me,</p> <p>5 please?</p> <p>6 A. "Once the master plan is approved, the architectural</p> <p>7 design review committee would be the mechanism for</p> <p>8 approval. Although this was not in the master plan,</p> <p>9 it could trigger a change to the master plan or it</p> <p>10 would be a conditional use that would go through the</p> <p>11 same process as before."</p> <p>12 Q. So in this email were you telling Maggie that it was</p> <p>13 your belief that adding lights and bleachers to the</p> <p>14 athletic field would likely trigger a change in the</p> <p>15 master plan or some type of conditional use process?</p> <p>16 A. Yes.</p> <p>17 MR. INGRISANO: Objection, form.</p> <p>18 BY MR. JEAN-LOUIS:</p> <p>19 Q. And where did you get that belief from?</p> <p>20 A. Because the lights and the bleachers weren't a part</p> <p>21 of the master plan that was being communicated with</p> <p>22 the neighborhood or the City.</p> <p>23 Q. So you think because the lights were not communicated</p> <p>24 with the neighbors or the City and they were not</p> <p>25 included in the master plan, that is a change that</p>	<p style="text-align: right;">Page 93</p> <p>1 A. Michael Elliott.</p> <p>2 Q. And when did he first approach you about that</p> <p>3 project?</p> <p>4 A. He --</p> <p>5 MR. INGRISANO: Objection, form, assumes</p> <p>6 facts not in evidence. Go ahead.</p> <p>7 THE WITNESS: I don't recall but it was</p> <p>8 after the master plan was approved.</p> <p>9 BY MR. JEAN-LOUIS:</p> <p>10 Q. Okay. When you submitted -- let me strike that.</p> <p>11 Who submitted the master plan, Exhibit 52?</p> <p>12 MR. INGRISANO: Objection, form, vague.</p> <p>13 THE WITNESS: Yeah, I'm not sure.</p> <p>14 BY MR. JEAN-LOUIS:</p> <p>15 Q. Did Potter Lawson file the document with the City?</p> <p>16 A. Yes.</p> <p>17 Q. And was Potter Lawson filing the document on behalf</p> <p>18 of all three Edgewood institutions, the campus</p> <p>19 school, the high school and the college?</p> <p>20 A. Yes.</p> <p>21 Q. And were you acting as the agent of all three schools</p> <p>22 in filing that master plan?</p> <p>23 MR. INGRISANO: Objection, form, calls for</p> <p>24 a legal conclusion.</p> <p>25 THE WITNESS: Yes.</p>

<p style="text-align: right;">Page 94</p> <p>1 BY MR. JEAN-LOUIS:</p> <p>2 Q. Did you understand that you had to have approval of</p> <p>3 the master plan from the presidents of each of the</p> <p>4 three institutions or leaders of the three</p> <p>5 institutions before you could file that document?</p> <p>6 A. Yes.</p> <p>7 Q. Did you obtain approval from each of the three</p> <p>8 leaders before filing that document?</p> <p>9 A. Yes.</p> <p>10 (Exhibit 173 marked.)</p> <p>11 BY MR. JEAN-LOUIS:</p> <p>12 Q. Do you recognize this as an email from -- handing you</p> <p>13 what's been marked as Exhibit 173? Do you recognize</p> <p>14 this as an email from Maggie Balistreri-Clark to</p> <p>15 Scott Flanagan that you were cc'd on?</p> <p>16 A. Yes.</p> <p>17 Q. And could you read the email for me, please?</p> <p>18 A. "Scott, the final master plan documents are ready to</p> <p>19 submit to the City. Mike Elliott asked to have a</p> <p>20 final review. Doug arranged this a week or two ago.</p> <p>21 Both Doug and I have sent him emails asking if</p> <p>22 everything is good to go as we would like to get this</p> <p>23 submitted. Do you have advice for us on this. Thank</p> <p>24 you, Maggie."</p> <p>25 Q. Okay. What is the date of this email?</p>	<p style="text-align: right;">Page 96</p> <p>1 two copies are in the library. Hurray."</p> <p>2 Q. And now do you see towards the middle of the second</p> <p>3 last page there an email from Michael to Maggie where</p> <p>4 he asks Maggie, "can you tell me if Doug and Paul</p> <p>5 Cuta ever connected with our changes."</p> <p>6 Did I read that correctly?</p> <p>7 A. Yes.</p> <p>8 Q. And is that the same -- is Paul Cuta the individual</p> <p>9 you identified from the architecture firm that was</p> <p>10 working with the high school?</p> <p>11 A. Yes.</p> <p>12 Q. Do you know what Mr. Elliott is referring to with his</p> <p>13 question?</p> <p>14 MR. INGRISANO: Objection, foundation.</p> <p>15 BY MR. JEAN-LOUIS:</p> <p>16 Q. We can go ahead actually to the email above that you</p> <p>17 are cc'd on.</p> <p>18 A. Okay.</p> <p>19 MR. INGRISANO: Same objection.</p> <p>20 BY MR. JEAN-LOUIS:</p> <p>21 Q. And actually even to the first page you send Michael</p> <p>22 Elliott and Maggie an email here, do you see that?</p> <p>23 MR. INGRISANO: Same objection,</p> <p>24 foundation.</p> <p>25 THE WITNESS: Yes.</p>
<p style="text-align: right;">Page 95</p> <p>1 A. October 16th, 2014.</p> <p>2 (Exhibit 174 marked.)</p> <p>3 BY MR. JEAN-LOUIS:</p> <p>4 Q. I'm handing you what's been marked as Exhibit 174.</p> <p>5 Do you see the date of the top email on this</p> <p>6 document?</p> <p>7 A. Yes.</p> <p>8 Q. And what is that date?</p> <p>9 A. October 20th, 2014.</p> <p>10 Q. Okay. If you could turn back to the second page and</p> <p>11 the third page here, last two pages, do you see at</p> <p>12 the very bottom where it says on Friday, September</p> <p>13 19th, 2014 at 4:43 p.m., Maggie Balistreri-Clark</p> <p>14 wrote, do you see that email there?</p> <p>15 A. Yes.</p> <p>16 Q. Could you read the section No. 2 there?</p> <p>17 MR. INGRISANO: Objection, foundation.</p> <p>18 THE WITNESS: On the last page?</p> <p>19 BY MR. JEAN-LOUIS:</p> <p>20 Q. On the last page.</p> <p>21 A. "2, Doug Hursh is printing up the final version of</p> <p>22 the campus master plan to submit to the City. We've</p> <p>23 been working on responding to the conditions that the</p> <p>24 City sent us as a part of the approval process. Once</p> <p>25 the final copies are printed, I will make sure that</p>	<p style="text-align: right;">Page 97</p> <p>1 BY MR. JEAN-LOUIS:</p> <p>2 Q. Could you read the body of that email for me, please?</p> <p>3 A. Which one?</p> <p>4 Q. On the bottom one of the first page.</p> <p>5 A. From myself?</p> <p>6 Q. Yes.</p> <p>7 A. On September 23rd, 2014, "Mike and Maggie, here is a</p> <p>8 PDF of the main body of the master plan document. It</p> <p>9 has the changes to the high school's future massing</p> <p>10 and size. Of additions based on the information that</p> <p>11 we got from Paul Cuta, the document does not include</p> <p>12 the appendix portion of the master plan but that</p> <p>13 portion has not changed recently."</p> <p>14 Q. Okay. So do you recall including changes to the</p> <p>15 master plan based on information or drawings that you</p> <p>16 got from the high school or from Paul Cuta?</p> <p>17 A. Yes.</p> <p>18 MR. JEAN-LOUIS: Actually, I'll use that</p> <p>19 one later.</p> <p>20 BY MR. JEAN-LOUIS:</p> <p>21 Q. If you could turn back to -- sorry, I buried my own</p> <p>22 outline here somewhere. Okay. Sorry here, I'm not</p> <p>23 sure where I placed this email.</p> <p>24 MR. JEAN-LOUIS: Want to take a five</p> <p>25 minute break while I look for this?</p>

25 (Pages 94 - 97)

<p style="text-align: right;">Page 98</p> <p>1 THE WITNESS: Sure.</p> <p>2 (Recess taken.)</p> <p>3 BY MR. JEAN-LOUIS:</p> <p>4 Q. If you could look at what's been marked as Exhibit</p> <p>5 174. Do you see the email at the top there from</p> <p>6 Michael Elliott?</p> <p>7 A. Yes.</p> <p>8 Q. And do you understand that email to be giving you a</p> <p>9 final approval to file the master plan from the high</p> <p>10 school?</p> <p>11 A. So, yes. I mean it looks like he's giving approval.</p> <p>12 I don't know if it was the final one because things</p> <p>13 kept going back and forth, but yes, he's giving</p> <p>14 approval based on what we sent him.</p> <p>15 Q. And you understood that you needed that approval</p> <p>16 before you could move forward?</p> <p>17 A. Yes.</p> <p>18 Q. If you could turn back to Exhibit 153.</p> <p>19 MR. INGRISANO: 153?</p> <p>20 MR. JEAN-LOUIS: Yes.</p> <p>21 BY MR. JEAN-LOUIS:</p> <p>22 Q. Do you recall ever hearing about a proposal to add</p> <p>23 lights and bleachers to Edgewood High School's</p> <p>24 athletic field before October 20th of 2014?</p> <p>25 A. Maybe not formally but they have always wanted to be</p>	<p style="text-align: right;">Page 100</p> <p>1 BY MR. JEAN-LOUIS:</p> <p>2 Q. Do you recognize this as -- where is the email on</p> <p>3 that exhibit for you?</p> <p>4 A. Last page.</p> <p>5 MS. ZYLSTRA: The witness should swap that</p> <p>6 and put the email on top with the attachment on the</p> <p>7 bottom. Just so we have it together correctly.</p> <p>8 BY MR. JEAN-LOUIS:</p> <p>9 Q. Do you recognize this as an email from Maggie</p> <p>10 Balistreri-Clark to you as well as Mary Lawson and</p> <p>11 Daniel Carey?</p> <p>12 A. Yes.</p> <p>13 Q. Who is Daniel Carey?</p> <p>14 A. Daniel Carey is the previous president before Scott</p> <p>15 Flanagan of the Edgewood College.</p> <p>16 Q. Okay. And she says "Mary, Doug and Ann, this is my</p> <p>17 latest attempt to respond to the unresolved issues</p> <p>18 document."</p> <p>19 Do you see that?</p> <p>20 A. Yes.</p> <p>21 Q. Do you know what this unresolved issues document is?</p> <p>22 A. I believe it was part of the memorandum of</p> <p>23 understanding that we were trying to create with the</p> <p>24 neighborhood to track potential issues that were not</p> <p>25 agreed so that the master plan could move forward.</p>
<p style="text-align: right;">Page 99</p> <p>1 able to have lights and bleachers there for athletic</p> <p>2 games.</p> <p>3 Q. And if we turn back to Exhibit 163, if you look at</p> <p>4 the diagram on the second page, I believe you</p> <p>5 testified that this was your handwriting?</p> <p>6 A. Yes.</p> <p>7 Q. And that it says on the open spaces site 1, no night</p> <p>8 games, correct?</p> <p>9 A. Correct.</p> <p>10 Q. And did you draft this based on your understanding</p> <p>11 that the high school had wanted to be able to do</p> <p>12 night games but was not able to?</p> <p>13 MR. INGRISANO: Objection, form, asked and</p> <p>14 answered.</p> <p>15 THE WITNESS: Yeah, I mean it was a</p> <p>16 question, and it was my understanding that they were</p> <p>17 not allowed to have night games.</p> <p>18 BY MR. JEAN-LOUIS:</p> <p>19 Q. And you -- did you testify that you believe that that</p> <p>20 might have been some type of agreement between</p> <p>21 Edgewood High School and the neighbors?</p> <p>22 A. Yes.</p> <p>23 MR. INGRISANO: Objection, form.</p> <p>24 THE WITNESS: Yes.</p> <p>25 (Exhibit 175 marked.)</p>	<p style="text-align: right;">Page 101</p> <p>1 Q. Okay. So do you believe that this, the document</p> <p>2 that's attached here, do you see the document</p> <p>3 memorandum of understanding is a draft document.</p> <p>4 Does this appear to you to be an early draft of the</p> <p>5 memorandum of understanding that I believe appears in</p> <p>6 section 4.4 or 4.5 of the master plan?</p> <p>7 MR. INGRISANO: Objection, form, vague as</p> <p>8 to time, foundation.</p> <p>9 THE WITNESS: Can I look at the --</p> <p>10 BY MR. JEAN-LOUIS:</p> <p>11 Q. Yeah, you can look at --</p> <p>12 A. What section did you say?</p> <p>13 Q. I believe it's 4.4 or 4.5.</p> <p>14 MR. INGRISANO: 4.4 was the MLU section.</p> <p>15 No, wait -- 4.3 -- no, 4.3 is -- 4.2.</p> <p>16 MR. JEAN-LOUIS: 4.2.</p> <p>17 MR. INGRISANO: 4.2 is the MLU.</p> <p>18 MR. JEAN-LOUIS: Okay.</p> <p>19 MR. INGRISANO: I'll object, foundation.</p> <p>20 These documents are not the same.</p> <p>21 THE WITNESS: Yes, I assume that's a draft</p> <p>22 of what we put in the master plan.</p> <p>23 BY MR. JEAN-LOUIS:</p> <p>24 Q. Okay. Do you see in Maggie's email where she says,</p> <p>25 "in addition to the issues noted here, current</p>

<p style="text-align: right;">Page 102</p> <p>1 neighborhood concerns include" and then she lists</p> <p>2 additional neighborhood concerns.</p> <p>3 Do you see that?</p> <p>4 A. Yes.</p> <p>5 Q. Could you read paragraph No. 7.</p> <p>6 A. "The football field, although there appears to be</p> <p>7 some openness to having lights on the football field</p> <p>8 in recent months, the use of the field for sporting</p> <p>9 events will need to be addressed in the master plan."</p> <p>10 Q. Okay. So based off this email, is it your</p> <p>11 understanding that the football field is not</p> <p>12 mentioned in the memorandum of understanding draft at</p> <p>13 least as of September 16, 2011?</p> <p>14 MR. INGRISANO: Objection, form,</p> <p>15 foundation.</p> <p>16 THE WITNESS: I don't know. It looks like</p> <p>17 it's not.</p> <p>18 BY MR. JEAN-LOUIS:</p> <p>19 Q. But you do recall lights on the football field being</p> <p>20 an issue since at least the '90s; is that correct?</p> <p>21 A. Correct.</p> <p>22 MR. INGRISANO: Objection to form.</p> <p>23 BY MR. JEAN-LOUIS:</p> <p>24 Q. Do you see where it says "the use of this field for</p> <p>25 sporting events will need to be addressed in the</p>	<p style="text-align: right;">Page 104</p> <p>1 wasn't a major item of discussion.</p> <p>2 MR. JEAN-LOUIS: Okay.</p> <p>3 BY MR. JEAN-LOUIS:</p> <p>4 Q. Do you recall discussing lights over that same period</p> <p>5 on the athletic field?</p> <p>6 MR. INGRISANO: Objection to form.</p> <p>7 THE WITNESS: I do not.</p> <p>8 MR. JEAN-LOUIS: Okay.</p> <p>9 THE WITNESS: Not specifically. Since the</p> <p>10 '90s it's been a thing that they have discussed.</p> <p>11 BY MR. JEAN-LOUIS:</p> <p>12 Q. Could you turn, please, to Exhibit 162, please?</p> <p>13 A. Okay. Got it.</p> <p>14 Q. Okay. Do you see the column that was discussed</p> <p>15 earlier with counsel titled</p> <p>16 responsibility/coordination?</p> <p>17 A. Yes.</p> <p>18 Q. And do you recognize that some of the people listed</p> <p>19 in that column are representatives of Edgewood</p> <p>20 College or -- is Maggie Balistreri-Clark listed for</p> <p>21 some of these sections?</p> <p>22 A. Yes.</p> <p>23 Q. And for chapter 3.8 is Ed Taylor also listed?</p> <p>24 A. Yes.</p> <p>25 Q. And your understanding is that they are both</p>
<p style="text-align: right;">Page 103</p> <p>1 master plan"?</p> <p>2 THE WITNESS: I do.</p> <p>3 BY MR. JEAN-LOUIS:</p> <p>4 Q. Do you know what Maggie meant by that?</p> <p>5 MR. INGRISANO: Objection, form, calls for</p> <p>6 speculation.</p> <p>7 THE WITNESS: I do not.</p> <p>8 BY MR. JEAN-LOUIS:</p> <p>9 Q. What project, if you know, were you working on with</p> <p>10 Maggie in September of 2011?</p> <p>11 A. Other than the master plan?</p> <p>12 Q. I guess my question is the master plan that was</p> <p>13 submitted in 2014 and 2015, were you working on that</p> <p>14 master plan as early as September 16 of 2011?</p> <p>15 A. We could have been, yes.</p> <p>16 Q. You --</p> <p>17 A. That might have been more like the beginning of it in</p> <p>18 discussing the need for it.</p> <p>19 Q. Okay. Do you recall any discussions between</p> <p>20 September 16 of 2011 and 2015 -- sorry, and --</p> <p>21 between September 16 of 2011 and 2014 of the use of</p> <p>22 the high school's athletic field for sporting events?</p> <p>23 MR. INGRISANO: Objection, form.</p> <p>24 THE WITNESS: I don't recall discussing</p> <p>25 it. We may have, but I don't recall that. It</p>	<p style="text-align: right;">Page 105</p> <p>1 affiliated with the college, correct?</p> <p>2 A. Correct.</p> <p>3 MR. INGRISANO: Objection, form, vague as</p> <p>4 to affiliated.</p> <p>5 THE WITNESS: Yes.</p> <p>6 BY MR. JEAN-LOUIS:</p> <p>7 Q. This column, does it tell you who drafted these</p> <p>8 sections or just who is responsible for coordinating</p> <p>9 drafting these sections?</p> <p>10 MR. INGRISANO: Objection, form.</p> <p>11 THE WITNESS: It was our way to track and</p> <p>12 suggest who should work on the different aspects of</p> <p>13 the master plan. Whether it ended up being that</p> <p>14 way, I'm not sure.</p> <p>15 BY MR. JEAN-LOUIS:</p> <p>16 Q. Looking at Exhibit 54, do you see where it says</p> <p>17 Sister Kathleen, Mike and Scott at the beginning of</p> <p>18 the email, "thank you for your submissions to the</p> <p>19 campus master plan."</p> <p>20 Do you see that?</p> <p>21 A. Um-hum, yes.</p> <p>22 Q. Do you have any reason to dispute that Sister</p> <p>23 Kathleen, Mike or Scott made submissions to the</p> <p>24 campus master plan?</p> <p>25 MR. INGRISANO: Objection, foundation.</p>

<p style="text-align: right;">Page 106</p> <p>1 THE WITNESS: I do not.</p> <p>2 BY MR. JEAN-LOUIS:</p> <p>3 Q. If you turn to the next paragraph, it says "here is a</p> <p>4 draft of chapters 1 through 3 compiled by Ed Taylor."</p> <p>5 Do you see that?</p> <p>6 A. Yes.</p> <p>7 Q. Do you have any reason to believe that Ed Taylor</p> <p>8 wrote chapters 1 through 3 himself as opposed to</p> <p>9 compiling submissions that were provided by other</p> <p>10 people?</p> <p>11 MR. INGRISANO: Objection, form.</p> <p>12 THE WITNESS: Can you ask that again?</p> <p>13 MR. JEAN-LOUIS: Yes.</p> <p>14 BY MR. JEAN-LOUIS:</p> <p>15 Q. Do you have any reason to believe that Ed Taylor</p> <p>16 wrote everything that is in this draft with chapters</p> <p>17 1 through 3 himself as opposed to having compiled</p> <p>18 submissions of other people?</p> <p>19 MR. INGRISANO: Objection to form.</p> <p>20 THE WITNESS: I am not --</p> <p>21 MR. INGRISANO: Foundation.</p> <p>22 THE WITNESS: I don't have -- I don't</p> <p>23 recall how this was written. I mean it could have</p> <p>24 been either way.</p> <p>25 BY MR. JEAN-LOUIS:</p>	<p style="text-align: right;">Page 108</p> <p>1 BY MR. JEAN-LOUIS:</p> <p>2 Q. Handing you what's been marked as Exhibit 177, do you</p> <p>3 recognize the email at the top being an email from</p> <p>4 Maggie Balistreri-Clark to yourself?</p> <p>5 A. Yes.</p> <p>6 Q. And what is the date and time of that email?</p> <p>7 A. January 15th, 2014, 3:45 p.m.</p> <p>8 Q. And if you turn back to Exhibit 176, the email that</p> <p>9 was from Maggie to you, the second email on the first</p> <p>10 page is from the same date at an earlier time; is</p> <p>11 that correct?</p> <p>12 A. Correct.</p> <p>13 Q. And turning back to 177, she says "Doug, here is the</p> <p>14 owner information. There are technically four</p> <p>15 owners. Please see a listing for the four below."</p> <p>16 Is that correct?</p> <p>17 A. Correct.</p> <p>18 Q. Do you understand this email and the listing of the</p> <p>19 four below to be describing who are the legal owners</p> <p>20 of the Edgewood Campus?</p> <p>21 A. Yes.</p> <p>22 Q. And based on this email at least, who would those</p> <p>23 owners be?</p> <p>24 A. The Edgewood Campus School, Edgewood College,</p> <p>25 Edgewood High School and the Edgewood Condominium</p>
<p style="text-align: right;">Page 107</p> <p>1 Q. So you don't have any knowledge as to how these</p> <p>2 chapters were written; is that correct?</p> <p>3 A. I don't recall, no.</p> <p>4 (Exhibit 176 marked.)</p> <p>5 BY MR. JEAN-LOUIS:</p> <p>6 Q. Handing you what's been marked as Exhibit 176. Do</p> <p>7 you recognize the second email from the top of the</p> <p>8 first page as an email from Maggie Balistreri-Clark</p> <p>9 to yourself?</p> <p>10 A. Yes.</p> <p>11 Q. She starts "Doug, Christie is working to find out how</p> <p>12 to list who the owner is. We'll let you know."</p> <p>13 Do you know who she's referring to in this</p> <p>14 email?</p> <p>15 MR. INGRISANO: Objection, foundation.</p> <p>16 THE WITNESS: Not without reading the</p> <p>17 whole thing. But I'm assuming when we submit</p> <p>18 anything to the City for planning approval, there is</p> <p>19 an application form and it requires a signature of</p> <p>20 the owner of property. And it's a little more</p> <p>21 complicated here being a campus.</p> <p>22 BY MR. JEAN-LOUIS:</p> <p>23 Q. Okay.</p> <p>24 A. But that might be what it is.</p> <p>25 (Exhibit 177 marked.)</p>	<p style="text-align: right;">Page 109</p> <p>1 Association.</p> <p>2 Q. Okay. And were you familiar -- were you familiar</p> <p>3 with the Edgewood Condominium Association as a</p> <p>4 concept while you were working on drafting the master</p> <p>5 plan?</p> <p>6 A. Yes.</p> <p>7 MR. INGRISANO: Objection, form.</p> <p>8 BY MR. JEAN-LOUIS:</p> <p>9 Q. Had you dealt, had you interacted or had you known</p> <p>10 about the condominium association while you were</p> <p>11 working on projects that predated the master plan?</p> <p>12 A. No.</p> <p>13 Q. Did anyone ever inform you that the owners of the</p> <p>14 land at the -- the owners of the Edgewood Campus</p> <p>15 land, did anyone ever tell you that the owners were</p> <p>16 the Dominican Sisters of Sinsinawa?</p> <p>17 A. Yes.</p> <p>18 Q. Yes? And do you understand that the Dominican</p> <p>19 Sisters of Sinsinawa to be different than the four</p> <p>20 owners that were listed on Exhibit 177?</p> <p>21 MR. INGRISANO: Objection, form,</p> <p>22 foundation.</p> <p>23 THE WITNESS: Yes. Can I explain?</p> <p>24 BY MR. JEAN-LOUIS:</p> <p>25 Q. Yes.</p>

<p style="text-align: right;">Page 110</p> <p>1 A. During the master plan as part of the drawings there 2 was a delineation of land created for each of the 3 institutions, so the three institutions. Before that 4 there wasn't, they just coexisted on the land. And 5 they wanted more of a clear delineation of what land 6 they could be in control of to control their future 7 needs for building additions. 8 And I think when we were doing the master 9 plan, the college was expanding but the other two 10 schools really weren't, did not have as much money, 11 did not have as much income and were afraid of losing 12 their land. So the way to make everybody peacefully 13 coexist was to create those boundaries. 14 Q. Okay. 15 A. And that's when this condominium thing occurred. 16 Q. Okay. Is it your understanding that as a result of 17 that process of delineating boundaries and -- between 18 the different campus institutions that there was 19 changes in land ownership from the Dominican Sisters 20 to these individual institutions? 21 A. I did not. 22 Q. You didn't understand that? 23 A. No. I wasn't really that involved. That didn't 24 really affect us very much, the ownership. 25 Q. Okay. You mentioned that you believe when you're</p>	<p style="text-align: right;">Page 112</p> <p>1 A. Yes. 2 Q. And I believe you testified earlier that this 3 comports with your recollection as well; is that 4 correct? 5 A. Yes. 6 Q. If you turn back to page 26 -- sorry, paragraph 26, 7 in the middle of the paragraph do you see a sentence 8 where it says "as I was not then planning on 9 undertaking a building project for EHS, I did not 10 dive into the master plan beyond what I thought were 11 the basics." 12 Do you see that? 13 A. I do. 14 Q. Do you believe that Edgewood High School was 15 proposing building projects as part of the master 16 plan process? 17 MR. INGRISANO: Objection, form. 18 THE WITNESS: Yeah, I think the meaning is 19 they weren't planning to undertake a building 20 project at that point, but they were studying with 21 Paul Cuta types of projects that they might need 22 which included, you know, making the building 23 accessible and they had to add an elevator and 24 potentially other additions, but I'm not sure -- I'm 25 assuming he's meaning that they weren't doing</p>
<p style="text-align: right;">Page 111</p> <p>1 submitting a kind of zoning document to the City that 2 you often have to list the owner of the land; is that 3 correct? 4 A. Right. 5 Q. Did you for any of the projects that you worked on 6 that are listed in the master plan or for submission 7 of the master plan, did you ever list the Dominican 8 Sisters of Sinsinawa as the owners of the land? 9 A. I don't recall. 10 Q. Do you know whether at any point in the creation or 11 relating to the submission of the master plan that 12 you ever checked with the City or the county register 13 of deeds as to who was the owner of the campus land? 14 A. No. 15 Q. Could you take a look at Exhibit 171. If you turn to 16 paragraph 27 of that exhibit. That's the declaration 17 of Michael Elliott. 18 A. Okay. Turn to -- 19 Q. Paragraph 27 which is on page 7 of 13. 20 A. Okay. 21 Q. In paragraph 27 it says "EHS identified four future 22 projects in the master plan. The remaining 18 23 proposed projects were identified by Edgewood College 24 and the Campus School." 25 Did I read that correctly.</p>	<p style="text-align: right;">Page 113</p> <p>1 anything at that time like pursuing a building at 2 that time. 3 BY MR. JEAN-LOUIS: 4 Q. Okay. But Mike Elliott and Paul Cuta did submit 5 things to you for inclusion of the master plan, 6 correct? 7 A. Yes. 8 Q. And you did include those submissions? 9 A. Yes. 10 (Exhibit 178 marked.) 11 BY MR. JEAN-LOUIS: 12 Q. I'm handing you what's been marked as Exhibit 178. 13 Could you turn to the second page of that document, 14 Potter 12554. 15 A. Sure. 16 Q. And if you could go to the second to the last email 17 on that page, do you see there an email from Michael 18 Elliott to Maggie Balistreri-Clark? 19 A. Yes. 20 Q. Could you read that email for me? 21 A. "Since I am new to this, I just want to make sure 22 that there is understanding that we, the high school, 23 plan to go up one or two stories on the existing 24 commons. Does this have to be shown." 25 Q. Okay. And then on the email above that there is an</p>

<p style="text-align: right;">Page 114</p> <p>1 email from Maggie Balistreri-Clark replying to</p> <p>2 Michael Elliott where she's also cc'd you; is that</p> <p>3 correct?</p> <p>4 A. Yes.</p> <p>5 Q. And she's asking you whether you need to show the</p> <p>6 massing of the buildings proposed by the high school?</p> <p>7 A. Yes.</p> <p>8 Q. And you respond in the email above that and say "we</p> <p>9 have already shown the massing of the addition in our</p> <p>10 massing model. We just need to make it the same size</p> <p>11 as the existing building."</p> <p>12 Is that correct?</p> <p>13 A. Yes.</p> <p>14 Q. And do you see turning to the first page of this</p> <p>15 exhibit on September 6 Michael Elliott writes, "Doug,</p> <p>16 I'm not sure what massing is, however, the commons,"</p> <p>17 which he puts in parentheses "lower right side facing</p> <p>18 the front of the building, appears lower in the</p> <p>19 models. We will at some point make it the same</p> <p>20 height as the rest of the building, not only -- not</p> <p>21 out, only up."</p> <p>22 Do you see that?</p> <p>23 A. Yes.</p> <p>24 Q. And you respond that you will change the height to</p> <p>25 match the height of the auditorium; is that correct?</p>	<p style="text-align: right;">Page 116</p> <p>1 BY MR. JEAN-LOUIS:</p> <p>2 Q. Do you remember discussing portions of the master</p> <p>3 plan with Michael Elliott other than massing?</p> <p>4 A. I don't recall.</p> <p>5 MR. INGRISANO: Counsel, do we have time</p> <p>6 for a break?</p> <p>7 MR. JEAN-LOUIS: Yeah.</p> <p>8 (Recess taken.)</p> <p>9 BY MR. JEAN-LOUIS:</p> <p>10 Q. Mr. Hursh, are you aware that Edgewood High School</p> <p>11 submitted a proposed amendment to its master plan to</p> <p>12 add features including a light -- including lights</p> <p>13 and bleachers and describing use of the field for</p> <p>14 athletic events?</p> <p>15 MR. INGRISANO: Objection, form,</p> <p>16 mischaracterizes. Go ahead.</p> <p>17 THE WITNESS: I'm not that familiar with</p> <p>18 that.</p> <p>19 BY MR. JEAN-LOUIS:</p> <p>20 Q. You're not aware if something like that occurred?</p> <p>21 A. No.</p> <p>22 Q. Okay. Did anyone from Edgewood High School or</p> <p>23 Edgewood College ever discuss with you personally</p> <p>24 amending the master plan to change the use of the</p> <p>25 field?</p>
<p style="text-align: right;">Page 115</p> <p>1 A. Yes.</p> <p>2 Q. And Michael then replies to you and says "Doug, sorry</p> <p>3 to be a pain but I do not want any misunderstandings</p> <p>4 as to our future intentions. We would go up to the</p> <p>5 same height as the existing taller side of the main</p> <p>6 building. It would add two floors max to the lower</p> <p>7 commons area. Thank you."</p> <p>8 Do you see that?</p> <p>9 A. Yes.</p> <p>10 Q. So is it your understanding that Mike Elliott wanted</p> <p>11 the projects related to the high school in the master</p> <p>12 plan to be accurate?</p> <p>13 MR. INGRISANO: Objection, form. Vague as</p> <p>14 to projects. Go ahead.</p> <p>15 THE WITNESS: In relationship to this</p> <p>16 aspect, yes.</p> <p>17 BY MR. JEAN-LOUIS:</p> <p>18 Q. And is this the only time that Michael Elliott to</p> <p>19 your knowledge asked for something to be corrected or</p> <p>20 changed in the master plan?</p> <p>21 MR. INGRISANO: Objection, form.</p> <p>22 THE WITNESS: I am not sure but I am not</p> <p>23 very -- I just don't remember how many</p> <p>24 communications we had regarding getting the massing</p> <p>25 correct on these additions.</p>	<p style="text-align: right;">Page 117</p> <p>1 A. I'm trying to recall. I know it was my opinion that</p> <p>2 we should go through that process, but I don't recall</p> <p>3 them reaching out to me in order to do that.</p> <p>4 Q. Okay. When you say that it was your opinion that</p> <p>5 they should go through that process, did you ever</p> <p>6 share that opinion with anyone from Edgewood High</p> <p>7 School or Edgewood College?</p> <p>8 A. I think so.</p> <p>9 Q. Who would you have shared that opinion with?</p> <p>10 A. Probably Michael Elliott.</p> <p>11 Q. Do you know if you would have shared with Michael</p> <p>12 Elliott that he could amend the master plan only for</p> <p>13 the limited purpose of changing the description of</p> <p>14 the use of the field?</p> <p>15 MR. INGRISANO: Objection, form.</p> <p>16 THE WITNESS: We did not talk about that.</p> <p>17 BY MR. JEAN-LOUIS:</p> <p>18 Q. Okay. What do you recall -- do you recall anything</p> <p>19 that you may have shared with him?</p> <p>20 A. I know that we did have a conversation when some of</p> <p>21 this came up after Matt Tucker's interpretation, and</p> <p>22 that they wanted to make some changes to the field.</p> <p>23 And when they asked me or when I wrote that letter,</p> <p>24 they requested my opinion on the subject, and I</p> <p>25 believe at that time I mentioned that you could</p>

<p style="text-align: right;">Page 118</p> <p>1 modify the master plan and go through that process.</p> <p>2 Q. And you said that at that time they were thinking</p> <p>3 about changes to the field; is that correct?</p> <p>4 A. I'm not super familiar with what they were doing.</p> <p>5 They weren't working with us. I think they were</p> <p>6 working with Vandewalle or Brian Munson. But I knew</p> <p>7 it had to do with changes at the field potentially.</p> <p>8 Q. Do you have any knowledge as to whether Edgewood High</p> <p>9 School ever explored the option of changing the</p> <p>10 description of the use of the field in an amendment</p> <p>11 to the master plan without changing anything</p> <p>12 physically at the field?</p> <p>13 A. I am not aware.</p> <p>14 Q. Could you turn back to Exhibit 165.</p> <p>15 A. I would love to.</p> <p>16 Q. It is the January 2nd --</p> <p>17 A. Got it.</p> <p>18 Q. Do you see in the second paragraph where it says "we</p> <p>19 did not focus on the field or spend time discussing</p> <p>20 the use of the fields with the neighborhood, the City</p> <p>21 or the Edgewood institutions. It was assumed that</p> <p>22 the fields would continue to be used for athletic</p> <p>23 games and events."</p> <p>24 A. Yes.</p> <p>25 Q. Do you believe that the neighbors' understanding of</p>	<p style="text-align: right;">Page 120</p> <p>1 A. Yes.</p> <p>2 Q. Is it fair to say that in 2013 you were not aware</p> <p>3 that games were played on that field?</p> <p>4 MR. INGRISANO: Objection, form.</p> <p>5 THE WITNESS: It says no night games.</p> <p>6 BY MR. JEAN-LOUIS:</p> <p>7 Q. But do you see below that where it says "games</p> <p>8 question mark"?</p> <p>9 A. Games question mark, yup.</p> <p>10 Q. Is that what it says?</p> <p>11 A. Yes. It's not saying -- I mean it says no night</p> <p>12 games, and then the question was games, like do they</p> <p>13 want to include games I guess is what I was asking at</p> <p>14 the time.</p> <p>15 Q. Well, let's turn to the first page of that exhibit.</p> <p>16 A. Yup.</p> <p>17 Q. Susan writes "basically Doug Hursh would like to</p> <p>18 verify the use of the spaces indicated by 1 and 2.</p> <p>19 Do games take place on this field? Is it solely for</p> <p>20 practice?"</p> <p>21 Do you see that?</p> <p>22 A. Yup.</p> <p>23 Q. Did you ask Susan Serrault to verify the use of the</p> <p>24 field?</p> <p>25 MR. INGRISANO: Objection to form, asked</p>
<p style="text-align: right;">Page 119</p> <p>1 how the field would be used would be based on the</p> <p>2 contents of the master plan and the presentations and</p> <p>3 conversations that you and Edgewood had with the</p> <p>4 neighbors?</p> <p>5 A. No.</p> <p>6 MR. INGRISANO: Objection, form. Calls</p> <p>7 for speculation.</p> <p>8 THE WITNESS: No. Because we did not</p> <p>9 discuss it, I assumed the neighborhoods would assume</p> <p>10 that nothing was changing and they would use it the</p> <p>11 same way they're using it now. Because we've never</p> <p>12 focused on the fields during any of our -- from what</p> <p>13 I recall now of that time period, we didn't really</p> <p>14 discuss any changes to the field.</p> <p>15 BY MR. JEAN-LOUIS:</p> <p>16 Q. You stated that you lived in the neighborhood from --</p> <p>17 around 1990 to 2010 you lived in Dudgeon Monroe; is</p> <p>18 that correct?</p> <p>19 A. Yes, yes.</p> <p>20 Q. If you turn to Exhibit 163.</p> <p>21 A. Yes.</p> <p>22 Q. On the second page of that exhibit you testified that</p> <p>23 that is your handwriting where it says "games</p> <p>24 question mark."</p> <p>25 Is that correct?</p>	<p style="text-align: right;">Page 121</p> <p>1 and answered.</p> <p>2 THE WITNESS: Yes.</p> <p>3 BY MR. JEAN-LOUIS:</p> <p>4 Q. So do you believe that before February of 2013 that</p> <p>5 you were aware that the field was used for games?</p> <p>6 MR. INGRISANO: Objection, form, asked and</p> <p>7 answered.</p> <p>8 THE WITNESS: Before 2013 did you say or</p> <p>9 during this time?</p> <p>10 BY MR. JEAN-LOUIS:</p> <p>11 Q. Before you received the reply from Judge Schemmel --</p> <p>12 A. Yes.</p> <p>13 Q. -- do you believe that you are aware that the field</p> <p>14 was used for games?</p> <p>15 A. I do believe that I was aware that field was used for</p> <p>16 games and that I had seen games and I had seen soccer</p> <p>17 games and football games, not at night but during the</p> <p>18 day.</p> <p>19 Q. Do you know why you asked Ms. Serrault to verify</p> <p>20 whether the field was used for games?</p> <p>21 A. I guess just to be sure that things had not changed.</p> <p>22 Q. So you weren't certain how the field was being used?</p> <p>23 MR. INGRISANO: Objection, form.</p> <p>24 THE WITNESS: Right.</p> <p>25 BY MR. JEAN-LOUIS:</p>

<p style="text-align: right;">Page 122</p> <p>1 Q. Do you think knowing how the field was being used, is</p> <p>2 that information, do you believe it was important for</p> <p>3 the drafting of the master plan?</p> <p>4 MR. INGRISANO: Objection, form.</p> <p>5 THE WITNESS: In hindsight, I think it</p> <p>6 would be important. But at the time, I don't think</p> <p>7 we thought it was very important because we weren't</p> <p>8 making any changes to the field.</p> <p>9 BY MR. JEAN-LOUIS:</p> <p>10 Q. Did you --</p> <p>11 A. Or highlighting any potential changes. It was going</p> <p>12 to stay the way it was.</p> <p>13 Q. When you asked Ms. Serrault to verify how the field</p> <p>14 was being used, did you think it was important that</p> <p>15 the description of the use be accurate?</p> <p>16 A. I'm assuming yes because I asked.</p> <p>17 Q. Is it fair to say that someone who lived in Dudgeon</p> <p>18 Monroe would not necessarily be aware of how the</p> <p>19 field is used?</p> <p>20 MR. INGRISANO: Objection, form, calls for</p> <p>21 speculation, foundation.</p> <p>22 THE WITNESS: That -- yeah. I mean I</p> <p>23 lived maybe 10 blocks away, so I never was affected</p> <p>24 by what happened on the field. It's not the same as</p> <p>25 the people that live right across the street, and</p>	<p style="text-align: right;">Page 124</p> <p>1 A. Yes.</p> <p>2 Q. Were drafts of the master plan shared with members of</p> <p>3 that committee?</p> <p>4 A. Yes.</p> <p>5 Q. Does that committee include representatives of the</p> <p>6 neighborhood associations?</p> <p>7 A. Yes.</p> <p>8 Q. Did you understand that those representatives of the</p> <p>9 neighborhood associations were reading the drafts of</p> <p>10 the master plan?</p> <p>11 A. Yes, yes.</p> <p>12 Q. Do you understand that they were sharing information</p> <p>13 about the drafts with their neighborhood</p> <p>14 associations?</p> <p>15 MR. INGRISANO: Objection, form, calls for</p> <p>16 speculation.</p> <p>17 THE WITNESS: I would assume, yes.</p> <p>18 BY MR. JEAN-LOUIS:</p> <p>19 Q. Thank you. You mentioned that you were aware that</p> <p>20 there were regularly scheduled meetings between the</p> <p>21 leaders of Edgewood High School, Edgewood College and</p> <p>22 Edgewood Campus School that sometimes included</p> <p>23 discussions of the master plan; is that correct?</p> <p>24 A. Yes.</p> <p>25 Q. Did you ever attend any of those meetings?</p>
<p style="text-align: right;">Page 123</p> <p>1 those were typically the ones that care about what</p> <p>2 happens on that field. I'm not sure that anybody</p> <p>3 else in the neighborhood cares that much.</p> <p>4 BY MR. JEAN-LOUIS:</p> <p>5 Q. All right.</p> <p>6 A. In my opinion.</p> <p>7 Q. But is it fair to say that someone who lived in that</p> <p>8 neighborhood in Dudgeon Monroe could be unaware of</p> <p>9 how the field is being used?</p> <p>10 MR. INGRISANO: Objection, form.</p> <p>11 THE WITNESS: I think yes.</p> <p>12 BY MR. JEAN-LOUIS:</p> <p>13 Q. Would it be reasonable for a neighbor to rely on the</p> <p>14 master plan to understand how the field is being</p> <p>15 used?</p> <p>16 MR. INGRISANO: Objection, form, asked and</p> <p>17 answered.</p> <p>18 THE WITNESS: I would say no, but it</p> <p>19 doesn't seem like it's -- I'm not sure how many</p> <p>20 people read the master plan and get into the details</p> <p>21 of it versus actually see what's going on at the</p> <p>22 field.</p> <p>23 BY MR. JEAN-LOUIS:</p> <p>24 Q. Did you attend meetings of the Edgewood neighborhood</p> <p>25 liaison committee?</p>	<p style="text-align: right;">Page 125</p> <p>1 A. I don't think I did. It was mostly Maggie.</p> <p>2 Q. Okay. How are you aware of it, they met in that</p> <p>3 manner?</p> <p>4 A. Discussions that I had with Maggie, providing them</p> <p>5 documents to review during those meetings.</p> <p>6 Q. At the neighborhood liaison committee meetings that</p> <p>7 you attended, is it fair to say that Maggie</p> <p>8 Balistreri-Clark served as the primary spokesperson</p> <p>9 for the Edgewood Campus schools?</p> <p>10 MR. INGRISANO: Objection, form.</p> <p>11 THE WITNESS: Yes.</p> <p>12 BY MR. JEAN-LOUIS:</p> <p>13 Q. Did you ever hear Maggie address projects that</p> <p>14 primarily related to the high school at those</p> <p>15 meetings?</p> <p>16 MR. INGRISANO: Objection, form.</p> <p>17 THE WITNESS: Yes. I mean part of those</p> <p>18 meetings were to review the documents that we were</p> <p>19 putting together, and the master plan does show</p> <p>20 additions to the high school. So that was part of</p> <p>21 it.</p> <p>22 BY MR. JEAN-LOUIS:</p> <p>23 Q. Okay. And you -- did you testify earlier that Maggie</p> <p>24 had been appointed to lead the coordination of the</p> <p>25 master plan among the three institutions; is that</p>

<p style="text-align: right;">Page 126</p> <p>1 correct?</p> <p>2 A. Yes.</p> <p>3 Q. Do you understand that after consulting with the</p> <p>4 presidents of the three institutions that she had the</p> <p>5 ability to speak on behalf of them?</p> <p>6 MR. INGRISANO: Objection, form,</p> <p>7 foundation.</p> <p>8 THE WITNESS: I'm not sure how to answer</p> <p>9 that. I think she would meet with the presidents</p> <p>10 and make sure that she wasn't presenting anything</p> <p>11 that they did not approve of.</p> <p>12 BY MR. JEAN-LOUIS:</p> <p>13 Q. From your experience attending those meetings, was it</p> <p>14 your impression that the neighbors viewed Maggie as</p> <p>15 speaking for all three institutions?</p> <p>16 MR. INGRISANO: Objection, form,</p> <p>17 foundation, calls for speculation.</p> <p>18 THE WITNESS: The neighbors knew that she</p> <p>19 was part of the college, and they knew that she met</p> <p>20 with the other presidents of the other institutions.</p> <p>21 So as much as that goes, she was, you know,</p> <p>22 providing information that was approved.</p> <p>23 BY MR. JEAN-LOUIS:</p> <p>24 Q. Thank you. Do you, to your understanding, you had</p> <p>25 testified that you believe that before Edgewood was</p>	<p style="text-align: right;">Page 128</p> <p>1 letter.</p> <p>2 Q. The January 2nd version of the letter, do you know</p> <p>3 whether you drafted this language yourself or whether</p> <p>4 it was supplied to you?</p> <p>5 A. I drafted it.</p> <p>6 Q. Okay. Do you know why the language in the second</p> <p>7 paragraph of Exhibit 166 is different than the</p> <p>8 language in the second paragraph of Exhibit 165?</p> <p>9 A. I don't entirely recall why it got changed, I don't,</p> <p>10 other than me reading it and changing it.</p> <p>11 Q. Do you know whether you ever shared the draft that is</p> <p>12 Exhibit 165 with anyone outside of Potter Lawson?</p> <p>13 A. I don't -- I couldn't tell you for sure. It may have</p> <p>14 gone to Brian, it may have gone to Mike Elliott as</p> <p>15 well.</p> <p>16 Q. To your knowledge Exhibit 165, that draft of the</p> <p>17 letter, has not been shared beyond the high school or</p> <p>18 Vandewalle?</p> <p>19 MR. INGRISANO: Objection, form, calls for</p> <p>20 speculation. Go ahead.</p> <p>21 THE WITNESS: I don't think so. I don't</p> <p>22 think there would be anybody else that was</p> <p>23 interested.</p> <p>24 BY MR. JEAN-LOUIS:</p> <p>25 Q. Did you understand how the letter would be used?</p>
<p style="text-align: right;">Page 127</p> <p>1 zoned campus institutional it might have been zoned</p> <p>2 residential; is that correct?</p> <p>3 A. Yes.</p> <p>4 MR. INGRISANO: Objection, form,</p> <p>5 mischaracterizes. Go ahead.</p> <p>6 THE WITNESS: Yes.</p> <p>7 BY MR. JEAN-LOUIS:</p> <p>8 Q. To your understanding was it voluntary for Edgewood</p> <p>9 to change its zoning to campus institutional?</p> <p>10 A. Yes.</p> <p>11 Q. We'll turn back to 160 -- the June 2nd letter. Give</p> <p>12 me a second to --</p> <p>13 MR. INGRISANO: 160?</p> <p>14 MR. JEAN-LOUIS: I think it's 164, but I</p> <p>15 need to find it. It's the June 2nd draft -- or the</p> <p>16 January 2nd draft, 165.</p> <p>17 BY MR. JEAN-LOUIS:</p> <p>18 Q. Did someone ask you to draft this letter?</p> <p>19 A. I'm trying to recall exactly how it occurred. Yes.</p> <p>20 I was made aware that the high school was having</p> <p>21 difficulty and -- with this use and based on Matt</p> <p>22 Tucker's interpretation, and they asked me to write a</p> <p>23 letter based on my understanding of the master plan.</p> <p>24 Q. And when you say "they," do you mean the high school?</p> <p>25 A. Yes. I think Brian Munson asked if I would write the</p>	<p style="text-align: right;">Page 129</p> <p>1 MR. INGRISANO: Objection, form.</p> <p>2 THE WITNESS: I believe they were going to</p> <p>3 plan commission to get -- to potentially try to get</p> <p>4 whatever they were trying to get as far as use of</p> <p>5 the field, and they wanted my input. And I did not</p> <p>6 go to that meeting to testify, and so I provided a</p> <p>7 letter.</p> <p>8 BY MR. JEAN-LOUIS:</p> <p>9 Q. Did they ask you if you would testify at that</p> <p>10 meeting?</p> <p>11 A. Yes.</p> <p>12 Q. Why did you not testify at the meeting?</p> <p>13 A. I think I had a previous engagement or was out of</p> <p>14 town. Couldn't make it.</p> <p>15 Q. To the best of your recollection is that meeting, was</p> <p>16 it a zoning board of appeals hearing?</p> <p>17 MR. INGRISANO: Objection, form,</p> <p>18 foundation.</p> <p>19 THE WITNESS: I don't recall.</p> <p>20 (Exhibit 179 marked.)</p> <p>21 BY MR. JEAN-LOUIS:</p> <p>22 Q. Handing you what's been marked as Exhibit 179, do you</p> <p>23 recognize the first page of this exhibit as an email</p> <p>24 from Maggie Balistreri-Clark?</p> <p>25 A. Yes.</p>

<p style="text-align: right;">Page 130</p> <p>1 Q. And are you cc'd on this email?</p> <p>2 A. Yes.</p> <p>3 Q. And is the document on the second page, is this a</p> <p>4 draft of potential new buildings or additions that</p> <p>5 was prepared by Potter Lawson?</p> <p>6 A. Yes.</p> <p>7 Q. Do you see on the email on the first page where it</p> <p>8 says "Mike Elliott clarified the uses for the high</p> <p>9 school and Doug has added information on why there</p> <p>10 was more information on perimeter buildings"?</p> <p>11 A. Yes, I see that.</p> <p>12 Q. Did I read that correctly?</p> <p>13 A. Yup. I was just trying to understand it.</p> <p>14 Q. Do you know whether Mike Elliott provided any of that</p> <p>15 information directly to you?</p> <p>16 MR. INGRISANO: Objection, form, vague.</p> <p>17 THE WITNESS: I would have no reason to</p> <p>18 believe that it wasn't provided to me because we did</p> <p>19 the drawing.</p> <p>20 BY MR. JEAN-LOUIS:</p> <p>21 Q. Do you have -- does Potter Lawson have any current</p> <p>22 engagements with Edgewood College?</p> <p>23 A. No.</p> <p>24 Q. When was the last --</p> <p>25 A. Oh, we do.</p>	<p style="text-align: right;">Page 132</p> <p>1 Q. And would you like to continue to do business with</p> <p>2 Edgewood College in the future?</p> <p>3 A. Yeah, yeah, and high school, too.</p> <p>4 Q. And the high school, too. Did you work --</p> <p>5 A. And the City. We want to do work for the City, too.</p> <p>6 Q. Have you -- are you aware of Edgewood College</p> <p>7 building a athletic facility in Fitchburg?</p> <p>8 A. No. I don't recall it. I know that there was some</p> <p>9 discussions about athletic facilities off campus. I</p> <p>10 know they had -- they were using a field in Middleton</p> <p>11 and looking for other fields that they could use. So</p> <p>12 I don't remember, but they may have talked to me</p> <p>13 about it. We didn't have anything to do with any of</p> <p>14 the work, if they did work there.</p> <p>15 Q. Okay. Could you turn to page 206 of 228 of the</p> <p>16 master plan.</p> <p>17 A. 206?</p> <p>18 Q. Yes.</p> <p>19 A. Okay.</p> <p>20 Q. Do you see a table there with two --</p> <p>21 MR. INGRISANO: Hang on, Counsel, please.</p> <p>22 MR. JEAN-LOUIS: No worries, 206.</p> <p>23 MR. INGRISANO: Got it.</p> <p>24 MR. JEAN-LOUIS: Okay.</p> <p>25 BY MR. JEAN-LOUIS:</p>
<p style="text-align: right;">Page 131</p> <p>1 Q. You do?</p> <p>2 A. We do. We are looking at -- they have an old</p> <p>3 building called Marshall Hall which is a historic</p> <p>4 building, and they're looking at -- it was a</p> <p>5 residence hall and they don't need the rooms anymore,</p> <p>6 and they're wondering what to do with it, so they've</p> <p>7 had us take a look at it and provide some cost</p> <p>8 estimates to modify it.</p> <p>9 Q. And you testified that Potter Lawson to the best of</p> <p>10 your knowledge and recollection began doing work for</p> <p>11 Edgewood in the mid 1990s; is that correct?</p> <p>12 A. Yes.</p> <p>13 Q. And would you say that you have -- that Edgewood and</p> <p>14 Potter Lawson have worked together fairly</p> <p>15 continuously from 19 -- from the mid 1990s to today?</p> <p>16 MR. INGRISANO: Objection, form, vague as</p> <p>17 to Edgewood.</p> <p>18 BY MR. JEAN-LOUIS:</p> <p>19 Q. Edgewood College.</p> <p>20 A. Yes. But in the past maybe, I don't know the dates,</p> <p>21 but we haven't done much in the past 10 years or so,</p> <p>22 maybe six or seven years, I don't know. But they</p> <p>23 haven't been doing much work recently.</p> <p>24 Q. Would you consider Edgewood College to be a client?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 133</p> <p>1 Q. Do you see a table there with a heading conditions of</p> <p>2 approval on the left-hand side and on the right-hand</p> <p>3 side it says Edgewood response?</p> <p>4 A. Yes.</p> <p>5 Q. Do you know what the conditions of approval column</p> <p>6 is?</p> <p>7 A. The letter, the conditions of approval, yes, the</p> <p>8 letter from the City departments with conditions of</p> <p>9 the City approving the master plan.</p> <p>10 Q. And those conditions are in the left-hand side</p> <p>11 column?</p> <p>12 A. Correct.</p> <p>13 Q. Is the right-hand side column something that was</p> <p>14 prepared after the letter with the conditions of</p> <p>15 approval was prepared?</p> <p>16 A. Yes.</p> <p>17 Q. And it was inserted into the letter?</p> <p>18 A. Yes.</p> <p>19 Q. Was the right-hand column prepared by Potter Lawson?</p> <p>20 A. Yes.</p> <p>21 Q. And --</p> <p>22 A. It's our way of communicating with the City as to,</p> <p>23 you know, that either there is an exception of their</p> <p>24 conditions or there is a change in the document or</p> <p>25 there is no change in the document, just to track it</p>

<p style="text-align: right;">Page 134</p> <p>1 to help everybody with the approval process.</p> <p>2 Q. Okay.</p> <p>3 MR. JEAN-LOUIS: Could you read that back</p> <p>4 to me, please?</p> <p>5 (Record read.)</p> <p>6 BY MR. JEAN-LOUIS:</p> <p>7 Q. And I'll have you eventually turn to page 210 of 228,</p> <p>8 but you can flip through to verify to yourself that</p> <p>9 this is it a continuation of this table.</p> <p>10 A. Yes.</p> <p>11 Q. Do you see at the bottom of page 210 there is a</p> <p>12 paragraph -- there is a heading actually in the</p> <p>13 middle that says "please now follow the procedures</p> <p>14 listed below for obtaining permits to your project."</p> <p>15 Do you see that?</p> <p>16 A. Yes.</p> <p>17 Q. Do you believe that, just as you testified before,</p> <p>18 the left-hand side column is from the original letter</p> <p>19 from the City and the right-hand side was prepared by</p> <p>20 Potter Lawson?</p> <p>21 MR. INGRISANO: Objection, form.</p> <p>22 THE WITNESS: Yes.</p> <p>23 BY MR. JEAN-LOUIS:</p> <p>24 Q. And so paragraph 3 under that heading, do you</p> <p>25 recognize that language in paragraph 3?</p>	<p style="text-align: right;">Page 136</p> <p>1 A. Yes.</p> <p>2 Q. Would you consider him to be honest?</p> <p>3 A. Yes.</p> <p>4 Q. Would you consider him to be straightforward?</p> <p>5 A. Yes.</p> <p>6 Q. Do you have any complaints about Tim Parks' work?</p> <p>7 A. No.</p> <p>8 Q. Did you work with Matthew Tucker during this?</p> <p>9 A. Yes, yes.</p> <p>10 Q. What's your relationship with Matthew Tucker like?</p> <p>11 A. We have a good relationship.</p> <p>12 Q. Would you consider Matthew Tucker to be</p> <p>13 knowledgeable?</p> <p>14 A. Yes.</p> <p>15 Q. Would you consider Matthew Tucker to have a strong</p> <p>16 understanding of the City of Madison's zoning code?</p> <p>17 A. Yes.</p> <p>18 MR. INGRISANO: Objection, form, vague.</p> <p>19 Mr. Hursh, can you let me have my objection, please?</p> <p>20 THE WITNESS: Yes, sorry.</p> <p>21 BY MR. JEAN-LOUIS:</p> <p>22 Q. Would you consider Matthew Tucker to be honest?</p> <p>23 A. Yes.</p> <p>24 Q. Have you -- did you work with Heather Stouder at all</p> <p>25 in the creation or approval of this master plan?</p>
<p style="text-align: right;">Page 135</p> <p>1 A. Yes.</p> <p>2 Q. And to you does that look like the language that we</p> <p>3 discussed that's on page 10 of 228?</p> <p>4 MR. INGRISANO: Objection, form.</p> <p>5 THE WITNESS: In the zoning ordinance,</p> <p>6 yes.</p> <p>7 BY MR. JEAN-LOUIS:</p> <p>8 Q. In the zoning ordinance?</p> <p>9 A. Yes.</p> <p>10 Q. And on the right-hand side you're acknowledging that?</p> <p>11 A. Yes.</p> <p>12 Q. And that no changes to the master plan have been</p> <p>13 made?</p> <p>14 A. Right. I thought that we put this in the master</p> <p>15 plan, but I could have -- I mean I think that's</p> <p>16 still -- but maybe we didn't.</p> <p>17 Q. I thought that, too. As part of the approval</p> <p>18 process, what city employees do you work with?</p> <p>19 A. Tim Parks for the most part from planning. There</p> <p>20 were others but maybe not as significantly involved</p> <p>21 as Tim Parks.</p> <p>22 Q. What was your working relationship with Tim Parks</p> <p>23 like?</p> <p>24 A. We have a good working relationship.</p> <p>25 Q. Would you consider Tim Parks to be helpful?</p>	<p style="text-align: right;">Page 137</p> <p>1 A. I don't recall.</p> <p>2 Q. Do you have a good working relationship with Heather</p> <p>3 Stouder?</p> <p>4 A. Yes.</p> <p>5 Q. Did you work with any of -- did you work with any</p> <p>6 city alders in getting this master plan approved?</p> <p>7 A. Yes.</p> <p>8 Q. Which city alders did you work with, do you remember?</p> <p>9 A. They changed every like year, so I -- I don't</p> <p>10 remember their names. It was mostly with Vilas</p> <p>11 neighborhood alders.</p> <p>12 Q. Did you ever hear any sentiment expressed by Matthew</p> <p>13 Tucker or Tim Parks to indicate to you that they had</p> <p>14 a bias against Edgewood?</p> <p>15 A. No.</p> <p>16 Q. Did you ever hear either of them make any</p> <p>17 anti-Catholic statements?</p> <p>18 A. No.</p> <p>19 Q. Did you ever communicate to the City or to any City</p> <p>20 employees orally that you believe that Matthew</p> <p>21 Tucker's interpretation of the master plan was</p> <p>22 incorrect?</p> <p>23 MR. INGRISANO: Objection, form. Go</p> <p>24 ahead.</p> <p>25 THE WITNESS: Did I communicate to the</p>

<p style="text-align: right;">Page 138</p> <p>1 City?</p> <p>2 MR. INGRISANO: Objection, form.</p> <p>3 BY MR. JEAN-LOUIS:</p> <p>4 Q. Did you ever talk to Matthew Tucker about his</p> <p>5 interpretation of section 3.8 of the master plan?</p> <p>6 A. No, I don't think so.</p> <p>7 Q. Did you talk to any other City officials about</p> <p>8 Matthew Tucker's interpretation of section 2.8?</p> <p>9 A. Maybe just Alder Tag Evers.</p> <p>10 Q. What do you recall about that conversation?</p> <p>11 A. I think -- I recall the letter, whatever one of these</p> <p>12 letters, and I recall mentioning to him that we could</p> <p>13 work with the high school to modify the master plan</p> <p>14 with the neighborhood and work through the issues if</p> <p>15 that's what they wanted to do.</p> <p>16 Q. Did you ever express to Alder Evers that you believed</p> <p>17 that Matthew Tucker's interpretation of section 3.8</p> <p>18 of the master plan was incorrect?</p> <p>19 A. I may have.</p> <p>20 Q. Do you recall --</p> <p>21 A. I don't recall but that was my opinion, that it was</p> <p>22 too strictly interpreted.</p> <p>23 Q. Did you -- have you worked with Tag Evers on other</p> <p>24 projects?</p> <p>25 A. No.</p>	<p style="text-align: right;">Page 140</p> <p>1 BY MR. JEAN-LOUIS:</p> <p>2 Q. Do you recall any other statements that were made by</p> <p>3 Alder Tag Evers to you that related to Edgewood?</p> <p>4 A. Not other than -- what I remember is we had a phone</p> <p>5 conversation, and he felt like I felt, that we should</p> <p>6 modify the master plan and continue in the same vein</p> <p>7 as the master plan by meeting with the neighborhoods,</p> <p>8 understanding their concerns and trying to address</p> <p>9 their concerns and address Edgewood's concerns to</p> <p>10 come to a resolution and consensus.</p> <p>11 Q. So it was your opinion that Edgewood should have</p> <p>12 proceeded by amending the master plan after meeting</p> <p>13 with the neighbors?</p> <p>14 A. Yes.</p> <p>15 MR. JEAN-LOUIS: I don't have anything</p> <p>16 else. Thank you.</p> <p>17 MR. INGRISANO: Couple clarifications. I</p> <p>18 get to go again. Couple clarifications for you.</p> <p>19 EXAMINATION</p> <p>20 BY MR. INGRISANO:</p> <p>21 Q. So Mr. Hursh, you said that you believed that Matt</p> <p>22 Tucker's interpretation was a misinterpretation of</p> <p>23 the master plan, correct?</p> <p>24 A. Yes.</p> <p>25 Q. So is it your testimony today that when the City</p>
<p style="text-align: right;">Page 139</p> <p>1 Q. Did Tag ever express to you his views about the</p> <p>2 effect of section 3.8 of the master plan?</p> <p>3 A. I don't recall that he did.</p> <p>4 Q. Did Tag ever -- Evers ever speak with you about</p> <p>5 whether or not Edgewood could repeal its master plan?</p> <p>6 A. We did talk about that. He didn't think that they</p> <p>7 should repeal it. He thought that they should modify</p> <p>8 it.</p> <p>9 Q. Did you ever speak with any Edgewood College or</p> <p>10 Edgewood High School or Edgewood Campus School</p> <p>11 representatives about repeal of Edgewood's master</p> <p>12 plan?</p> <p>13 A. I'm trying to remember. I would imagine they might</p> <p>14 have called regarding repealing it. Specifically, I</p> <p>15 don't know that I talked to anybody specifically. I</p> <p>16 think, you know, Maggie was my main contact during</p> <p>17 the process, and I believe she had retired by that</p> <p>18 time, and there wasn't really somebody else that, you</p> <p>19 know, that we would communicate that much about it.</p> <p>20 Q. So you don't recall being consulted --</p> <p>21 A. I don't recall -- well --</p> <p>22 MR. INGRISANO: Objection, form, asked and</p> <p>23 answered.</p> <p>24 THE WITNESS: I don't recall being</p> <p>25 consulted, no.</p>	<p style="text-align: right;">Page 141</p> <p>1 misinterprets a master plan, the property holder</p> <p>2 should go through the amendment process to get a</p> <p>3 correct interpretation?</p> <p>4 MR. JEAN-LOUIS: Objection, form.</p> <p>5 THE WITNESS: So I said -- I guess I said</p> <p>6 misinterpretation, but I think everybody can have</p> <p>7 their own interpretation. And in hindsight, could</p> <p>8 we made it maybe more comprehensive so that the</p> <p>9 interpretations would be more concise versus, you</p> <p>10 know, from one end to the other. But so what was</p> <p>11 the center of your question?</p> <p>12 BY MR. INGRISANO:</p> <p>13 Q. Your testimony was and your letter says that it was a</p> <p>14 misinterpretation of the master plan.</p> <p>15 So my question for you, sir, is it your</p> <p>16 testimony today that the City misinterprets a master</p> <p>17 plan, the property holder should have to go through</p> <p>18 the amendment process before the planning commission</p> <p>19 or Common Council to get a proper interpretation of</p> <p>20 its master plan?</p> <p>21 MR. JEAN-LOUIS: Objection, form,</p> <p>22 misstates previous testimony.</p> <p>23 THE WITNESS: I'm not sure how to answer</p> <p>24 that. We work with the City on a lot of projects.</p> <p>25 And if they interpret something some way, there</p>

<p style="text-align: right;">Page 142</p> <p>1 is -- for us to tell them they misinterpreted it</p> <p>2 does nothing. So we have to go through some process</p> <p>3 to get something amended if they -- we deal with</p> <p>4 this same thing with building inspection. They</p> <p>5 interpret building codes differently than we do. We</p> <p>6 don't agree with them, but we have no basic recourse</p> <p>7 other than to either go after a formal variance with</p> <p>8 them or make the changes. So I think we're just</p> <p>9 used to having to go through some sort of approval</p> <p>10 process based on their interpretations.</p> <p>11 BY MR. INGRISANO:</p> <p>12 Q. So it's your testimony today, sir, that because you</p> <p>13 don't feel like you have in a typical situation any</p> <p>14 other recourse, you're stuck with kind of a</p> <p>15 modification or an amendment process?</p> <p>16 A. Yes, yes.</p> <p>17 MR. JEAN-LOUIS: Objection, form.</p> <p>18 BY MR. INGRISANO:</p> <p>19 Q. Let me ask you to take a look at Exhibit 13. That's</p> <p>20 28.097.</p> <p>21 A. Okay.</p> <p>22 Q. Section 10 on the second to last page of that</p> <p>23 exhibit.</p> <p>24 A. Okay.</p> <p>25 Q. You've been asked about that section, changes to the</p>	<p style="text-align: right;">Page 144</p> <p>1 foundation, misstates previous testimony.</p> <p>2 BY MR. INGRISANO:</p> <p>3 Q. Of the ordinance?</p> <p>4 A. Agreed.</p> <p>5 Q. And one of the permitted secondary uses for a campus</p> <p>6 institutional district is (5), indoor and outdoor</p> <p>7 sports and recreational facilities, correct?</p> <p>8 A. Correct.</p> <p>9 MR. JEAN-LOUIS: Objection to form.</p> <p>10 BY MR. INGRISANO:</p> <p>11 Q. And to your understanding would you agree, sir, that</p> <p>12 the Edgewood athletic field is an outdoor sports</p> <p>13 facility?</p> <p>14 MR. JEAN-LOUIS: Objection, form.</p> <p>15 THE WITNESS: Yes.</p> <p>16 BY MR. INGRISANO:</p> <p>17 Q. If the Edgewood athletic field is holding practices,</p> <p>18 it's an outdoor sports facility, correct?</p> <p>19 MR. JEAN-LOUIS: Objection to form.</p> <p>20 THE WITNESS: Yes.</p> <p>21 BY MR. INGRISANO:</p> <p>22 Q. If the Edgewood athletic field is holding games, it's</p> <p>23 an outdoor sports facility, correct?</p> <p>24 MR. JEAN-LOUIS: Objection, form.</p> <p>25 THE WITNESS: Yes.</p>
<p style="text-align: right;">Page 143</p> <p>1 master plan by the City's counsel.</p> <p>2 A. Yes.</p> <p>3 Q. And that section talks about changes to the proposed</p> <p>4 use, correct?</p> <p>5 A. Yes.</p> <p>6 Q. Where does the -- this chapter of the ordinances,</p> <p>7 where does it identify uses under the campus</p> <p>8 institutional district?</p> <p>9 MR. JEAN-LOUIS: Objection as to form.</p> <p>10 THE WITNESS: I don't know that it does.</p> <p>11 BY MR. INGRISANO:</p> <p>12 Q. Take a look at paragraph 3(a) and (b).</p> <p>13 A. Okay.</p> <p>14 Q. Does that refresh your recollection, sir, about where</p> <p>15 this statute, this ordinance, identifies permitted</p> <p>16 uses for campus institutional districts?</p> <p>17 MR. JEAN-LOUIS: Objection, form,</p> <p>18 foundation, calls for speculation.</p> <p>19 THE WITNESS: Yes, this looks like a list</p> <p>20 of uses versus a definition of uses.</p> <p>21 BY MR. INGRISANO:</p> <p>22 Q. Sure. There is no other -- to your recollection</p> <p>23 there is no other reference to uses in this section,</p> <p>24 correct?</p> <p>25 MR. JEAN-LOUIS: Objection, form,</p>	<p style="text-align: right;">Page 145</p> <p>1 BY MR. INGRISANO:</p> <p>2 Q. Okay. So, sir, if Edgewood changes the use of its</p> <p>3 field from being an outdoor sports facility that</p> <p>4 holds practices to an outdoor sports facility that</p> <p>5 holds games, is there a change in the use under</p> <p>6 section 3(b)(5)?</p> <p>7 MR. JEAN-LOUIS: Objection, form, calls</p> <p>8 for a legal conclusion.</p> <p>9 THE WITNESS: Not in my opinion.</p> <p>10 BY MR. INGRISANO:</p> <p>11 Q. Sir, you mentioned in your testimony you found Matt</p> <p>12 Tucker to be honest, correct?</p> <p>13 A. Correct.</p> <p>14 Q. You found him to be knowledgeable, correct?</p> <p>15 A. Correct.</p> <p>16 Q. So if Matt Tucker were to render an opinion that the</p> <p>17 Edgewood athletic field could receive a permit for</p> <p>18 outdoor lighting without needing to change or amend</p> <p>19 its master plan, would you have any reason to dispute</p> <p>20 that conclusion?</p> <p>21 MR. JEAN-LOUIS: Objection to form,</p> <p>22 foundation.</p> <p>23 THE WITNESS: That seems complicated to</p> <p>24 me.</p> <p>25 BY MR. INGRISANO:</p>

<p style="text-align: right;">Page 146</p> <p>1 Q. Sure. If Matt Tucker, and I'll represent to you that 2 Matt Tucker on February 27 of 2019 said to Edgewood 3 that they can get a light permit without needing to 4 amend their master plan. If he -- based on that 5 assumption, do you have any reason to disagree with 6 Matt Tucker and say no, Edgewood has to amend its 7 master plan to get lights? 8 MR. JEAN-LOUIS: Objection, form, 9 foundation, calls for a legal conclusion. 10 THE WITNESS: I think my opinion would be 11 the master plan, a big part of the master plan is 12 the relationship of Edgewood Campus with the 13 neighborhood. If they were to just put lights in 14 without going through a process where they discussed 15 with the neighbors and came to some agreement with 16 how they would be used and when they would be used, 17 it would be I feel like a disuse, a disservice to 18 the master plan and to their relationship with the 19 neighborhood. 20 BY MR. INGRISANO: 21 Q. So a disservice, yes. But technically speaking, for 22 purposes of the ordinances and in the terms -- and 23 the actual terms of the master plan, if Matt Tucker 24 said that a light permit could issue to Edgewood 25 without the need to amend the master plan, based on</p>	<p style="text-align: right;">Page 148</p> <p>1 approval of the remainder of the master plan that the 2 campus wanted to complete. 3 So you asked if I had seen it, I don't 4 recall if I have actually read that. 5 Q. Okay. Was that stipulation about lights, was it in 6 the master plan itself? 7 MR. JEAN-LOUIS: Objection, form. 8 BY MR. INGRISANO: 9 Q. To your knowledge? 10 A. I don't know. 11 Q. What you've just relayed to us about the master plan 12 from the '90s and the lights and the stipulation 13 about the road, you're learning all of that through 14 Mary Lawson, or are you having direct communications 15 with the neighbors and Edgewood in the '90s? 16 A. No, I was learning that through Mary Lawson. I was 17 not a part of that. 18 Q. With respect to the owners of the Edgewood Campus 19 that you identified for the campus school, the 20 college and the high school and the association, do 21 you know who owns the shares or the interest in those 22 various corporate entities? 23 MR. JEAN-LOUIS: Objection, form, 24 foundation. 25 THE WITNESS: No.</p>
<p style="text-align: right;">Page 147</p> <p>1 your understanding of the lighting code and your 2 understanding of the master plan, do you have any 3 reason to disagree with the conclusion that that 4 permit could issue without an amendment? 5 MR. JEAN-LOUIS: Objection, form, 6 foundation, calls for speculation, assumes facts not 7 in evidence. 8 THE WITNESS: I would go with it, with 9 Matt's decision on that. 10 BY MR. INGRISANO: 11 Q. The agreement with the neighbors that you referenced 12 from the '90s about not holding night games, do you 13 remember talking about that? 14 A. Yes. 15 Q. Have you ever seen that agreement? 16 A. That is a good question. I've seen the old master 17 plan, and I recall the history probably through Mary 18 Lawson that once -- a big part of that plan in '96 19 was getting a new road in from Monroe Street which 20 changed the traffic patterns and moved the field. 21 And originally there were lights on the field, and 22 part of the negotiations with the City as far as my 23 understanding goes or with the neighbors was that the 24 campus agreed to not have lights, and that was a 25 requirement of the neighbors to provide their</p>	<p style="text-align: right;">Page 149</p> <p>1 BY MR. INGRISANO: 2 Q. So you knew from your experience living in Dudgeon 3 Monroe neighborhood that Edgewood played games on its 4 field, correct? 5 A. Yes. 6 MR. JEAN-LOUIS: Objection, form. 7 BY MR. INGRISANO: 8 Q. And you knew -- you know now from the exhibit you saw 9 today that Judge Schemmel advised Susan Serrault the 10 games were played on the field, correct? 11 A. Correct. 12 Q. So based on your own knowledge of the field and what 13 you're seeing here today, 3.8 you still believe 14 though in the master plan is accurate and a fair 15 characterization of the use of the field? 16 MR. JEAN-LOUIS: Objection, form. 17 THE WITNESS: Could it be more accurate? 18 I mean could we have put more description into it? 19 Yes. And I don't recall at all why we didn't put 20 more into there, but I know that the sentiment at 21 the time was we're not changing anything, so we're 22 not really describing anything new or old, and there 23 wasn't a lot of time to sort of put into that 24 description. 25 BY MR. INGRISANO:</p>

<p style="text-align: right;">Page 150</p> <p>1 Q. Well, and based on the importance that you believe</p> <p>2 that that paragraph had, you gave it the appropriate</p> <p>3 description, correct?</p> <p>4 MR. JEAN-LOUIS: Objection, form.</p> <p>5 THE WITNESS: Well, that chapter was about</p> <p>6 open space, and that's what remain open space.</p> <p>7 Whether it was used for something, this or that, but</p> <p>8 it wouldn't have a building on it.</p> <p>9 BY MR. INGRISANO:</p> <p>10 Q. Go to 178, sir. You were asked about the massing,</p> <p>11 your massing discussions with Mike Elliott, do you</p> <p>12 remember?</p> <p>13 A. Yes.</p> <p>14 Q. Looking at this, everything in 178 with respect to</p> <p>15 the discussion on massing you would agree with me is</p> <p>16 consistent with the idea that the Edgewood entities</p> <p>17 were focused on the master plan in terms of buildings</p> <p>18 and facilities, correct?</p> <p>19 MR. JEAN-LOUIS: Objection, form.</p> <p>20 THE WITNESS: Yes.</p> <p>21 BY MR. INGRISANO:</p> <p>22 Q. Can you look at Exhibit 179. You were asked about</p> <p>23 the second paragraph in that email, Mike Elliott</p> <p>24 clarified the uses for the high school, correct?</p> <p>25 A. 179?</p>	<p style="text-align: right;">Page 152</p> <p>1 Q. If I could turn you, have you turn to paragraph 5</p> <p>2 again. And this is a section again on the contents</p> <p>3 of the master plan, correct?</p> <p>4 A. Yes.</p> <p>5 Q. If you turn to subsection 3, do you agree that -- or</p> <p>6 sorry, (c) of section 5, do you agree that it</p> <p>7 discusses uses?</p> <p>8 A. Yes.</p> <p>9 Q. And do you agree that descriptions of land uses and</p> <p>10 buildings are a requirement of a master plan?</p> <p>11 A. Yes.</p> <p>12 Q. Do you agree that descriptions of proposed open space</p> <p>13 areas and other open space uses are a requirement of</p> <p>14 the master plan?</p> <p>15 A. Yes.</p> <p>16 Q. Was it your belief when you were working on the</p> <p>17 master plan that because the field was not a building</p> <p>18 that its uses did not need to be described?</p> <p>19 MR. INGRISANO: Objection, form.</p> <p>20 THE WITNESS: I'm trying to think -- I</p> <p>21 feel like we had that -- because we were talking</p> <p>22 mostly about buildings and new buildings, that</p> <p>23 that's what we focused on. And so we did not</p> <p>24 describe the uses of that field entirely.</p> <p>25 BY MR. JEAN-LOUIS:</p>
<p style="text-align: right;">Page 151</p> <p>1 Q. Yes.</p> <p>2 A. Here we go. Your question again?</p> <p>3 Q. Yeah. So you see the second paragraph where it says</p> <p>4 Mike Elliott clarified the uses for the high school?</p> <p>5 A. Yes.</p> <p>6 Q. And the attachment here is an exhibit potential new</p> <p>7 buildings or additions, correct?</p> <p>8 A. Correct.</p> <p>9 Q. Do you have any reason to believe that the uses</p> <p>10 referenced that Mike Elliott clarified were uses that</p> <p>11 pertained to potential new buildings or additions or</p> <p>12 to open spaces or what?</p> <p>13 A. This definitely was about building additions.</p> <p>14 MR. INGRISANO: I've got no further</p> <p>15 questions.</p> <p>16 MR. JEAN-LOUIS: I've just got a couple</p> <p>17 brief clarifications.</p> <p>18 EXAMINATION</p> <p>19 BY MR. JEAN-LOUIS:</p> <p>20 Q. If you could turn back to Exhibit 13. Do you recall</p> <p>21 counsel asking you about where uses are discussed in</p> <p>22 this exhibit?</p> <p>23 A. Yes.</p> <p>24 Q. And counsel was asking you about section 3, correct?</p> <p>25 A. Correct.</p>	<p style="text-align: right;">Page 153</p> <p>1 Q. And did you not describe the uses of the field</p> <p>2 entirely because you were not focused on it or</p> <p>3 because it was your belief that doing so was not</p> <p>4 necessary?</p> <p>5 MR. INGRISANO: Objection, form, asked and</p> <p>6 answered and misleading.</p> <p>7 THE WITNESS: I feel like because we were</p> <p>8 not focused on it.</p> <p>9 BY MR. JEAN-LOUIS:</p> <p>10 Q. Have you generally found the City to be reasonable to</p> <p>11 work with on your projects?</p> <p>12 A. Yes.</p> <p>13 Q. And the zoning department?</p> <p>14 A. Yes, for the most part.</p> <p>15 MR. JEAN-LOUIS: No further questions.</p> <p>16 EXAMINATION</p> <p>17 BY MR. JEAN-LOUIS:</p> <p>18 Q. And you want your projects to be approved by the City</p> <p>19 going forward, don't you?</p> <p>20 A. Yes, I do.</p> <p>21 MR. INGRISANO: Thank you.</p> <p>22 (At 2:56 p.m., the deposition concluded.)</p> <p>23 * * *</p> <p>24 COURT REPORTER: Same transcript order?</p> <p>25 MR. JEAN-LOUIS: Yes.</p>

1 CERTIFICATE
2 STATE OF WISCONSIN)
) SS

3 MILWAUKEE COUNTY)

4 I, VICKY L. ST. GEORGE, Registered Merit
5 Reporter and Notary Public in and for the State of
6 Wisconsin, do hereby certify that the preceding deposition
7 was recorded by me and reduced to writing under my
8 personal direction.

9 I further certify that said deposition was
10 taken at the offices of GODFREY & KAHN, S.C., One East
11 Main Street, Suite 500, Madison, Wisconsin on
12 September 2, 2022, commencing at 9:47 a.m. and concluding
13 at 2:56 p.m.

14 I further certify that I am not a relative or
15 employee or attorney or counsel of any of the parties, or
16 a relative or employee of such attorney or counsel, or
17 financially interested directly or indirectly in this
18 action.

19 In witness whereof, I have hereunto set my hand
20 and affixed my seal of office at Milwaukee, Wisconsin,
21 this 8th day of September, 2022.

22 

23 _____
24 VICKY L. ST. GEORGE
25 Notary Public in and for the
State of Wisconsin
Commission Expires 1/29/2025

[& - 2006]

Page 1

&	11-2-2018 3:5	59:15 60:5	178 4:14 113:10
& 1:11 2:2,6 154:10	113 4:14	79:15 80:11	113:12 150:10
0	11718 56:6	99:3 119:20	150:14
0018 1:5	12 3:13 9:13	164 3:18 60:1,4,8	179 4:15 129:20
06564 29:13	25:12 36:11	61:4 79:15	129:22 150:22
06565 29:14	44:6	80:11 127:14	150:25
1	12-5-2013 3:7	165 3:20 66:8,11	18 47:11 111:22
1 2:7 7:24 26:14	12554 113:14	68:24 69:24	1800s 54:5
34:24 52:12	129 4:15	70:7 71:6 77:14	1839 63:23
53:5,9,24 56:16	12:53 60:17	77:19,22 78:17	1840 63:22
56:16 59:20	13 3:3 21:22	80:20,21 81:24	19 3:15 38:1
60:17 61:5,6,10	23:18,23 24:18	118:14 127:16	60:16 131:15
61:12 62:1	36:1 86:11,14	128:8,12,16	1962 8:18
63:11 64:3,4,7	111:19 142:19	166 3:21 68:16	1990 74:11
74:6 81:23 88:3	151:20	68:19 69:8,13	119:17
90:21 99:7	14 25:25	70:7 71:6,7	1990s 131:11,15
106:4,8,17	140 2:19	77:19 81:14,16	1994 12:13 14:11
120:18	15 58:4	128:7	1996 12:19,24
1-15-2014 4:12	151 2:20	167 3:22 70:11	57:13 58:2
4:13	153 2:21 3:8	70:13 71:7 83:3	19th 95:13
1-6-2020 3:22	89:21,24 98:18	16th 95:1	1:00 8:14
1.1 26:15 27:11	98:19	17 3:11 26:15	2
1/29/2025	159 3:10 29:4,7	34:17	2 1:14 3:20
154:25	29:25 32:25	170 4:3 5:14,16	20:14 37:7 54:2
10 44:6 84:21	34:20 36:1,14	7:19	59:21 66:16
87:8,14,16 89:4	15th 108:7	171 4:4 43:25	90:5 95:16,21
89:19 122:23	16 102:13 103:14	44:3 72:17	120:18 154:12
131:21 135:3	103:20,21	111:15	2-19-2013 3:17
142:22	160 3:11 34:12	172 4:5 48:5,8	3:18
10-16-2014 4:7	34:15 36:14	49:8	2-19-21 20:14
10-20-2014 3:8	127:11,13	173 4:7 94:10,13	2.8 138:8
100 12:19	161 3:13 36:8,11	174 4:8 95:2,4	20 3:6
107 4:12,13	36:14 38:4,14	98:5	2000 14:18
10th 8:18	162 3:15 37:23	175 4:10 99:25	2000s 14:15
11-14-2013 4:15	37:25 39:7	176 4:12 107:4,6	2005 48:14,20
	104:12	108:8	2006 14:15
	163 3:17 54:22	177 4:13 107:25	
	54:25 55:1,13	108:2,13 109:20	

[2008 - 77]

Page 2

2008 14:15	228 20:14,15	139:2 149:13	58:4 93:11
2010 9:14 74:11	21:23 23:18	30 11:25	53 84:5
119:17	25:12,25 26:15	300 8:22	53073 2:3
2011 13:20	51:9,22 52:3,5	32 76:7	53562 8:20
102:13 103:10	52:11 58:4,14,20	33 9:12 11:5	53703 2:8
103:14,20,21	58:23 78:13	47:18,19	54 3:7,17 62:17
2013 3:12,14,16	84:9,11,21 87:16	34 3:11	62:20 64:10,14
9:20 34:17 36:1	132:15 134:7	36 3:13	105:16
36:11 38:2	135:3	37 3:15	5414309 1:25
44:19 48:14,21	23rd 97:7	3:21 1:5	6
50:3,12,14 55:9	257-3911 2:4	3:45 108:7	6 7:24 12:13
60:16 63:4 71:8	257-9521 2:8	4	14:11 44:14
72:1 74:4 87:2	26 44:13 65:12	4 3:21 51:3,4	114:15
120:2 121:4,8	112:6,6	68:22	6-13-2013 3:10
2014 4:8 9:20	27 47:9 111:16	4.2 58:4,20,20	60 3:18 51:9,22
13:20 25:4,18	111:19,21 146:2	59:1 101:17	52:11 78:13
44:15 49:10	28 20:14 72:22	4.2. 101:15,16	608 2:4,8
66:19 71:8 72:1	28.097 87:5	4.3 58:7,23 59:8	61 51:23
74:4 87:2 95:1,9	28.097. 142:20	101:15,15	62 3:7 52:3,5
95:13 97:7	29 3:10 75:3	4.4 101:6,13,14	6369 8:20
98:24 103:13,21	2:56 1:15 153:22	4.5 84:5,8 101:6	65 3:5 70:4
108:7	154:13	4.5. 101:13	6554 35:16
2015 23:23 24:18	2nd 77:16	43 4:4	66 3:20
25:9,19 26:2	118:16 127:11	45 3:5 65:6,9	68 3:21
103:13,20	127:15,16 128:2	48 4:5	7
2018 65:12 75:22	3	4:43 95:13	7 20:10 49:8
2019 3:20,21	3 26:2 33:9 37:8	4th 2:7	50:1 72:20
66:16 68:22	63:12,17 84:23	5	102:5 111:19
77:16 146:2	87:15 106:4,8,17	5 2:17 4:3 12:13	70 3:22
2022 1:14 4:6	134:24,25	14:11 63:4	73 58:14,17,18
44:6 48:9	143:12 145:6	87:25 88:9	58:20
154:12,21	151:24 152:5	89:19 144:6	749 8:22
2055 154:22	3.10 38:21	145:6 152:1,6	77 2:18 58:23
206 132:15,17,22	3.8 38:13 51:8,11	500 1:12 2:3	59:9
20th 4:8 95:9	53:8 61:12,25	154:11	
98:24	62:13 64:8,20	52 3:6 20:4,9,11	
210 134:7,11	104:23 138:5,17	20:18 38:9 51:7	

[8 - answered]

Page 3

8	149:14,17	adjacent 57:16	ah 6:6,12
8 4:6 47:18 48:9	accurately 66:23	administrator	ahead 18:7 78:6
81 84:8,11	67:13 70:25	18:17	84:15 93:6
86 3:3	acknowledging	advancing 32:15	96:16 115:14
89 3:8	135:10	advice 94:23	116:16 127:5
8th 154:21	acting 93:21	advise 27:10	128:20 137:24
9	action 154:18	advised 18:19	al 1:6
9-16-2011 4:10	activity 71:24	66:2 149:9	alder 70:14
9-9-2013 4:14	actual 146:23	advising 18:24	138:9,16 140:3
90s 12:13 13:24	add 37:8 64:25	affect 110:24	alders 137:6,8
14:4 102:20	92:19 98:22	affiliated 105:1	137:11
104:10 147:12	112:23 115:6	105:4	allowed 99:17
148:12,15	116:12	affirming 58:7	alteration 85:11
94 4:7	added 85:15	58:23 59:8,9	87:19
95 4:8	130:9	affixed 154:20	amend 19:15
96 147:18	adding 64:16	afraid 110:11	117:12 145:18
99 4:10	91:13	agent 93:21	146:4,6,25
9:47 1:15 154:12	addition 13:4,10	ago 94:20	amended 87:1
a	60:17 101:25	agree 33:18	89:16 142:3
a.m. 1:15 154:12	114:9	46:14,21 57:3	amending
abbreviated	additional 92:19	64:9 67:18	116:24 140:12
56:21	102:2	73:17 78:22	amendment 89:9
ability 42:23	additionally	79:2,17,21 80:5	92:1,18,19,21
126:5	60:20	80:9,14 87:14	116:11 118:10
able 10:19 90:14	additions 40:7,8	142:6 144:11	141:2,18 142:15
99:1,11,12	46:5 86:6 90:24	150:15 152:5,6,9	147:4
absolutely 71:23	91:1,2 97:10	152:12	amendments
accessible	110:7 112:24	agreed 36:18	92:16
112:23	115:25 125:20	100:25 144:4	ample 19:20
accommodate	130:4 151:7,11	147:24	anderson 32:1
7:16	151:13	agreement 57:13	ann 100:16
accommodation	address 8:19,21	57:15 59:10	answer 6:9,11
47:20	22:11 55:13	99:20 146:15	6:25,25 7:2
accurate 52:7	63:7 125:13	147:11,15	12:11,12 92:6
70:5 80:10	140:8,9	agreements	126:8 141:23
81:22 82:1,2	addressed 102:9	12:24 57:23	answered 99:14
115:12 122:15	102:25	58:1,7,23 59:8	121:1,7 123:17
			139:23 153:6

[anti - attorney]

Page 4

anti 137:17 anticipate 75:21 anticipated 68:8 anybody 54:1 123:2 128:22 139:15 anymore 131:5 appeals 129:16 appear 30:1 38:7 51:23 81:13 101:4 appeared 2:5,9 appears 37:8 64:10 87:15 101:5 102:6 114:18 appendix 58:2 97:12 application 107:19 appointed 125:24 approach 93:2 appropriate 150:2 approval 34:11 62:8 84:16 91:8 94:2,7 95:24 98:9,11,14,15 107:18 133:2,5,7 133:15 134:1 135:17 136:25 142:9 148:1 approvals 17:16 84:5,8 90:22 approve 21:8 126:11	approved 12:20 17:13 26:25 43:18 87:19,22 91:6 93:8 126:22 137:6 153:18 approving 133:9 approximate 74:18 approximately 9:14 11:25 13:23 archaeological 22:20 architect 7:7 11:12,13,21,23 15:22 41:4 46:5 architects 9:8,23 10:1 architectural 10:2,4,5 11:3 13:2 41:22 76:21 77:4 90:15 91:6 architecture 11:8,10,11,15,19 11:22 12:2 40:4 40:24 50:21 51:5 96:9 area 54:3 115:7 areas 34:1,3,6 86:3 87:21 88:23 152:13 argumentative 78:6 79:1 80:13 arranged 94:20 articulated 67:22	arts 11:2 13:5,10 15:9,13,18,23 92:13,14 asked 6:24 31:7 94:19 99:13 115:19 117:23 120:25 121:6,19 122:13,16 123:16 127:22 127:25 139:22 142:25 148:3 150:10,22 153:5 asking 57:1 59:18 63:9 94:21 114:5 120:13 151:21 151:24 asks 96:4 aspect 115:16 aspects 32:8 105:12 assist 20:24 56:1 77:1 associates 32:1 association 109:1,3,10 148:20 associations 124:6,9,14 assume 49:22 80:23 86:8 101:21 119:9 124:17 assumed 80:16 80:18,22 118:21 119:9 assumes 93:5 147:6	assuming 78:2 107:17 112:25 122:16 assumption 80:24 146:5 athletic 52:12 53:24 54:6,10,14 56:17 59:3,10,11 60:18 61:7,25 64:4 70:20 71:2 74:6,12 75:5 76:8,9 77:24 78:4,14,18,23 79:18 80:17 81:8,18 91:14 98:24 99:1 103:22 104:5 116:14 118:22 132:7,9 144:12 144:17,22 145:17 attached 4:22 55:24 101:2 attachment 55:2 55:8 62:20,24 63:21 100:6 151:6 attempt 100:17 attend 43:5,12 43:19 123:24 124:25 attended 42:13 43:16 125:7 attending 41:24 126:13 attorney 4:23 65:11 154:15,16
---	---	---	--

attorneys 6:22	52:5 54:10	57:24 58:1,15	blocks 122:23
auditorium	64:24 67:15	61:13 71:7 76:8	board 129:16
114:25	72:1,6,8 83:22	78:13 79:25	boardman 2:6
aware 38:23	85:15 86:10	81:22 84:7,13	boardmanclark...
74:23 116:10,20	89:4 97:10,15	99:4,19 100:22	2:9
118:13 120:2	98:14 99:10	101:1,5,13 106:7	body 97:2,8
121:5,13,15	102:10 108:22	106:15 110:25	bottom 20:10
122:18 124:19	119:1 127:21,23	112:2,14 117:25	29:12,17 63:22
125:2 127:20	142:10 146:4,25	118:25 121:4,13	63:24 90:6
132:6	149:12 150:1	121:15 122:2	95:12 97:4
b	basic 142:6	126:25 129:2	100:7 134:11
b 3:1 4:1 143:12	basically 10:18	130:18 134:17	boundaries
145:6	11:2 41:21	137:20 139:17	110:13,17
bachelors 11:2	120:17	149:13 150:1	boys 60:19
11:22	basics 45:20	151:9	break 7:14 43:23
back 25:9 50:19	46:10 112:11	believed 77:18	50:19 77:10
51:7 52:11	basis 15:2 18:9	138:16 140:21	97:25 116:6
57:25 59:15	bates 29:13	best 7:2,11,16	brian 66:16 69:2
72:17 83:1	bears 20:13	13:21 49:9	118:6 127:25
85:22 87:25	becoming 24:7	52:22 129:15	128:14
88:9,11,16 95:10	began 51:15	131:9	briarcliff 8:20
97:21 98:13,18	131:10	better 8:7 12:17	brief 151:17
99:3 108:8,13	beginning 14:17	41:9	bruce 11:17
112:6 118:14	28:25 29:3 34:8	beyond 15:9	build 10:16
127:11 134:3	103:17 105:17	45:19 46:9	building 13:5
151:20	begins 26:23	112:10 128:17	15:9 16:5 40:10
balistreri 30:11	65:18	bias 137:14	41:10,23 44:21
39:15 42:16	begun 13:23	big 146:11	45:18,25 46:3,6
94:14 95:13	behalf 2:5,9 5:22	147:18	86:5 110:7
100:10 104:20	28:22 39:17	binding 42:24	112:9,15,19,22
107:8 108:4	42:22,24 55:22	43:3	113:1 114:11,18
113:18 114:1	93:17 126:5	birth 8:17	114:20 115:6
125:8 129:24	belief 91:13,19	bit 23:7 88:9	131:3,4 132:7
balistreri's 63:6	152:16 153:3	bleachers 90:10	142:4,5 150:8
based 24:18	believe 25:4,24	90:16,24 91:1,13	151:13 152:17
25:20 27:19	37:15 38:10	91:20 98:23	buildings 10:5
41:6 46:10 50:6	43:4 44:25	99:1 116:13	10:14,15 12:18
	49:14,19 57:1,13		13:7 15:4 22:15

[buildings - city]

Page 6

34:4 46:17 53:16 81:3 88:18,21 114:6 130:4,10 150:17 151:7,11 152:10 152:22,22 built 14:13 bullet 62:1 burden 67:23 buried 97:21 business 8:21 9:24 10:2 132:1	22:7,13,14,15,20 23:4,17 24:3,3,7 24:8,19 25:21 26:5,6,11,23,24 26:25 27:7 30:2 30:25 34:2 35:10 39:18 40:14,15 42:17 42:22 47:12 52:6,7 53:15,20 66:20,21,21,24 67:4 74:3,7 75:14 86:18 87:19 88:5 93:18 95:22 105:19,24 107:21 108:20 108:24 109:14 110:18 111:13 111:24 124:22 125:9 127:1,9 132:9 139:10 143:7,16 144:5 146:12 147:24 148:2,18,19 campuses 10:14 30:23 capabilities 10:13 care 123:1 cares 123:3 carey 100:11,13 100:14 cars 22:14 cas 41:2 cas4 41:3 51:2 case 1:4 65:9	catholic 60:24 137:17 cc 55:12 cc'd 60:10,13 94:15 96:17 114:2 130:1 center 13:3,10 92:14 141:11 certain 73:1 78:4 121:22 certainly 7:6 certificates 11:20 certify 154:6,9 154:14 chain 89:24 90:1 change 36:1 38:14 71:20 80:24 83:7 86:9 89:5,8 91:9,14 91:25 114:24 116:24 127:9 133:24,25 145:5 145:18 changed 17:5 69:24 83:15 97:13 115:20 121:21 128:9 137:9 147:20 changes 10:16 27:14,18 79:8 81:5 83:16,21,23 83:24,25 86:2,7 87:20 89:6,18 96:5 97:9,14 110:19 117:22 118:3,7 119:14 122:8,11 135:12	142:8,25 143:3 145:2 changing 117:13 118:9,11 119:10 128:10 149:21 chapter 33:9 34:24 37:7 38:5 61:15 63:11,17 104:23 143:6 150:5 chapters 106:4,8 106:16 107:2 characterization 45:10 47:5 149:15 characterize 14:1 characterizes 47:2 charge 47:3 check 90:17 checked 111:12 chicago 11:14,16 christie 107:11 ci 89:2 circulated 34:9 city 1:6 6:22 10:21 12:20 17:5,6 18:11,12 19:3,11,19,22 22:8 23:4,6,9 27:10,13,14,22 27:24 32:5,5,5,7 42:20 43:7 53:23,23 65:13 66:1 68:10 69:18,21 72:2,7 72:10,13,23
c			
c 2:1 41:4 87:25 88:3,4,16 152:6 154:1,1 call 45:25 90:17 called 5:3 17:7 57:14 88:10 131:3 139:14 calling 76:9 calls 89:11 93:23 103:5 119:6 122:20 124:15 126:17 128:19 143:18 145:7 146:9 147:6 campus 3:3 10:17,21 12:5,14 12:15,25 13:2,7 13:9,12,14,16 14:8,13 15:4,8 16:4,17,21,22,23 17:7,8,9,9,10,17 17:20,25 18:2,14 19:21 20:19 21:6,16,17 22:3			

[city - conclusion]

Page 7

79:11 80:6 81:1 82:21,23 83:8,20 83:21 85:9,15 91:22,24 93:15 94:19 95:22,24 107:18 111:1,12 118:20 132:5,5 133:8,9,22 134:19 135:18 136:16 137:6,8 137:19,19 138:1 138:7 140:25 141:16,24 147:22 153:10 153:18 city's 17:18,18 19:14 27:19 32:20 75:21 143:1 civil 32:2 claim 17:11 clarifications 140:17,18 151:17 clarified 130:8 150:24 151:4,10 clarify 15:18 41:14 clarifying 50:20 clark 2:6 30:11 39:15 42:16 94:14 95:13 100:10 104:20 107:8 108:4 113:18 114:1 125:8 129:24 classes 52:14 64:5 76:11	78:15 classification 25:1 clause 77:23 78:16 clear 6:13 23:5 110:5 clearly 6:2 client 131:24 close 22:15 code 18:11,13 136:16 147:1 codes 142:5 coexist 110:13 coexisted 110:4 coincide 38:8 college 11:1 12:15 13:2,16 15:4,6 17:9 21:1 21:14,15 22:3 30:15 37:14 39:14 46:16 47:2,12,21 55:22 62:12 65:4 72:23 77:1 93:19 100:15 104:20 105:1 108:24 110:9 111:23 116:23 117:7 124:21 126:19 130:22 131:19,24 132:2 132:6 139:9 148:20 college's 76:19 column 30:5 31:25 32:11 35:7,22 36:20	38:5,24 39:6 104:14,19 105:7 133:5,11,13,19 134:18 come 6:22 17:5 18:10 22:1 140:10 comes 7:4 23:14 coming 8:14 79:22 commencing 154:12 commission 87:22 129:3 141:18 154:25 commitment 59:2 commitments 42:24 43:4 57:9 committee 22:11 42:15,20 76:21 77:4 90:8,15 91:7 123:25 124:3,5 125:6 common 141:19 commons 113:24 114:16 115:7 communicate 10:19 34:5 40:21 137:19,25 139:19 communicated 91:21,23 communicating 133:22 communication 54:21	communications 41:17 115:24 148:14 community 12:25 company 9:3 compare 64:8 compiled 106:4 106:17 compiling 106:9 complained 74:25 complaints 136:6 complete 24:2 25:1 26:4 35:13 148:2 complicated 107:21 145:23 comport 47:15 49:4 comports 63:14 112:3 comprehensive 23:16 141:8 comprised 60:23 concept 109:4 concerns 22:12 102:1,2 140:8,9 140:9 concise 141:9 concluded 153:22 concluding 154:12 conclusion 89:12 93:24 145:8,20 146:9 147:3
--	---	---	--

[conclusions - counsel]

Page 8

conclusions 67:14 71:1	content 33:3,20 46:18 51:20	36:20 38:17,24 39:5 104:16	111:3 112:4 113:6 114:3,12
condition 18:1	52:18 63:16	125:24	114:25 115:25
conditional 24:3 24:9,11 26:5 91:10,15	contents 3:10,11 3:13,15 29:10,25 30:2 34:16	copied 79:18 copies 95:25 96:1	118:3 119:18,25 124:23 126:1 127:2 131:11
conditioning 61:1	36:12,15 38:2 50:7 51:14 58:3 63:15 88:10	copy 35:13 55:24 corner 21:22 63:22	133:12 140:23 141:3 143:4,24 144:7,8,18,23
conditions 33:9 88:5,6,17,20 95:23 133:1,5,7 133:8,10,14,24	119:2 152:2 contests 74:12 continuation 60:5 134:9	corporate 1:10 2:15 5:2,20 10:11 17:10 148:22	145:12,13,14,15 149:4,10,11 150:3,18,24 151:7,8,24,25 152:3
condominium 108:25 109:3,10 110:15	continue 43:18 80:16 90:12 118:22 132:1 140:6	correct 5:22 20:3,22 23:25 25:16,23 26:2,3 26:7,8,13 27:25 28:9 33:4,8 35:1 35:2 36:2,3,12 36:13 37:6 38:5 38:6,9,15,16,18 38:19,24 39:10 46:20,24 51:11 51:12,24,25 52:1 55:19,22,23 56:17,18 57:20 57:21 58:5,6,7,8 58:21,22 60:11 60:12,14,15 63:4 63:5,12,13,17,25 64:1,12 66:16,17 67:6 68:20,23,24 68:25 70:14,15 72:2,14 83:25 87:23 92:2,12 99:8,9 102:20,21 105:1,2 107:2 108:11,12,16,17	corrected 82:6 82:18 115:19 corrections 63:11 correctly 24:5 27:2 42:4 44:23 45:21 46:19 47:13,23 48:15 52:15 54:8 61:2 71:8 73:3 77:25 79:12 81:11,20 82:10 83:10 96:6 100:7 111:25 130:12
confirm 18:12	continues 45:17 87:23		correspond 52:2 cost 131:7
conjunction 60:25	continuously 131:15		council 141:19 counsel 5:11 20:12 58:15 84:10 104:15 116:5 132:21 143:1 151:21,24 154:15,16
connected 96:5	contrary 75:9,25		
conscious 61:17 61:18	contributed 52:17		
consensus 140:10	control 110:6,6		
consider 131:24 135:25 136:2,4 136:12,15,22	conversation 65:2 117:20 138:10 140:5		
considered 90:23	conversations 46:11 53:22 119:3		
consistent 150:16	convey 56:25		
consultants 32:2	coordinating 30:24 31:2 33:3 33:20,25 105:8		
consulted 21:6 139:20,25	coordination 30:6 32:12 34:25 35:7,21		
consulting 126:3			
contact 14:2 15:16 16:1,4 63:11 92:24 139:16			

[county - difficulty]

Page 9

county 111:12 154:3 couple 6:1 31:12 31:14 140:17,18 151:16 court 1:1 6:3 20:13 50:21 153:24 create 19:12,19 29:19,20 100:23 110:13 created 22:10 34:1,16 71:19 110:2 creating 17:15 23:8 42:18 67:24 creation 111:10 136:25 credentials 11:20 cs 37:2 current 8:19 15:11 69:14 71:14 82:5,19 89:14 101:25 130:21 curtail 66:3 cuta 41:4 96:5,8 97:11,16 112:21 113:4 cv 1:5	dash 31:13,15 56:22 date 8:17 25:18 25:23 44:5 94:25 95:5,8 108:6,10 dated 3:5,7,8,10 3:11,13,15,17,18 3:20,21,22 4:5,7 4:8,10,12,13,14 4:15 23:23 26:1 34:17 48:8 63:4 66:16 68:22 77:16 dates 131:20 day 14:14 121:18 154:21 days 68:24 deal 142:3 dealing 66:1 dealings 80:22 dealt 22:13 109:9 dean 30:14,15 december 26:1 63:4 decide 6:23 decided 19:11,11 49:23 decision 17:19 19:14 61:17,18 147:9 declaration 4:4 4:5 44:3 48:8 72:18 111:16 deeds 111:13 defendants 1:7 2:9	definitely 151:13 definition 143:20 degree 11:2,22 degrees 11:20 delineating 110:17 delineation 110:2,5 delivered 4:23 department 18:18 25:11 85:9 153:13 departments 27:19 133:8 deposition 1:9 5:20,24 7:20 8:11 153:22 154:6,9 describe 19:6 53:20 78:3,23 79:3 152:24 153:1 described 54:10 54:18 76:8 152:18 describes 10:6 79:2 describing 108:19 116:13 149:22 description 3:2 4:2 53:19 54:19 61:5,10,11,13,25 65:1 88:4 117:13 118:10 122:15 149:18 149:24 150:3	descriptions 37:21,22 38:18 152:9,12 design 8:25 9:5,7 9:9,10,23 10:3,4 77:4 90:15 91:7 designated 32:13 32:13 33:2 39:8 designation 31:19,20 designed 34:5 designers 9:8 10:1 designs 9:22 detailed 22:19 details 123:20 determine 61:14 development 10:19 23:16 deviate 89:8 dh 31:7,12,15,20 31:20 32:4 35:1 38:17 diagram 52:3,5 99:4 difference 31:19 31:21 different 10:10 10:10 12:21 34:10 38:4 53:20 54:18 68:8 83:22 105:12 109:19 110:18 128:7 differently 142:5 difficult 6:16 difficulty 127:21
d			
d 2:13 3:1 4:1 5:10 55:16 daniel 100:11,13 100:14			

[direct - ed]

Page 10

direct 9:7 45:14 148:14 direction 23:6 154:8 directly 130:15 154:17 director 8:25 9:5 9:10,13,15 dirt 12:16 disagree 45:2 46:8 47:25 48:19 49:14 73:5,10 146:5 147:3 discuss 77:23 79:25 80:5,8 116:23 119:9,14 discussed 22:4 78:19 79:15 80:11 104:10,14 135:3 146:14 151:21 discusses 152:7 discussing 79:10 79:17 103:18,24 104:4 116:2 118:19 discussion 104:1 150:15 discussions 103:19 124:23 125:4 132:9 150:11 disparate 10:21 dispute 90:4 105:22 145:19 disservice 146:17,21	distinction 35:3 district 1:1,1 3:4 16:23 17:7,8,11 17:12,16,21 18:2 19:23 24:12 86:19 89:2 143:8 144:6 districts 143:16 disuse 146:17 dive 45:19 46:9 112:10 document 7:25 20:13,22 21:8,11 26:20 28:8,14 29:8 32:25 33:18 35:14 36:15 39:6 44:4 44:10,14 48:11 51:19 53:13 55:3 56:5 58:2 62:21,22 64:8 65:23 67:9 68:7 69:10,19 70:16 70:19,22 71:10 72:20 77:23 78:2,2,9,10 81:7 81:9,10,17 83:1 83:5,6,13 85:2 86:4,15,17,18,20 87:1,11 93:15,17 94:5,8 95:6 97:8 97:11 100:18,21 101:1,2,3 111:1 113:13 130:3 133:24,25 documentation 23:11	documents 23:8 23:10 29:20 34:1 46:4 59:24 94:18 101:20 125:5,18 doing 11:17 40:9 42:9 43:21 110:8 112:25 118:4 131:10,23 153:3 dominican 13:7 29:1 109:16,18 110:19 111:7 dos 51:14 double 20:8 doug 1:10 2:16 5:3,10 31:10 60:11 94:20,21 95:21 96:4 100:16 107:11 108:13 114:15 115:2 120:17 130:9 downtown 11:16 draft 35:4 56:8 69:6 77:16,19 99:10 101:3,4,21 102:12 106:4,16 127:15,16,18 128:11,16 130:4 drafted 23:22 45:24 53:9 66:12 68:20 105:7 128:3,5 drafting 21:25 39:17 44:18 45:9,14 49:10,15 49:20 50:9	51:15 53:7 67:15 70:16 105:9 109:4 122:3 drafts 40:13 41:24 124:2,9,13 draw 34:9 drawing 86:5 130:19 drawings 34:9 41:13 97:15 110:1 drew 34:3 72:12 drink 7:15 drive 74:9 dudgeon 74:8 119:17 122:17 123:8 149:2 duly 5:4
			e
			e 2:1,1,13 3:1,1,1 4:1,1,1,18,18 154:1,1 earlier 69:6 77:18,19 104:15 108:10 112:2 125:23 early 101:4 103:14 easier 17:17 east 1:12 2:3 154:10 ed 37:8,11,13,20 37:20 38:17 39:15 51:15,20 63:11,15 64:16 104:23 106:4,7

[ed - eventually]

Page 11

106:15 edgewood 1:2 12:5 13:22 14:3 14:8,21 15:8,16 16:10,17,21,22 19:13 20:1,18 21:1,2 22:25 23:1 24:3,8,19 26:5,23 27:25 28:15,23 30:2,15 30:18 33:1 35:16 36:21 38:22 39:7,14,18 39:20 40:2,2,3,3 41:18 42:8,11,24 45:24 46:16 47:2,12,21 48:14 48:20 49:5 50:2 52:12 54:2,3,11 54:12 55:22 57:10 59:19 61:6,23 62:5,12 64:4 65:3,3 66:20 68:11 72:22 74:7,19,25 76:19 77:1 79:11 80:9,25 83:9 86:23 87:6 93:18 98:23 99:21 100:15 104:19 108:20 108:24,24,25,25 109:3,14 111:23 112:14 116:10 116:22,23 117:6 117:7 118:8,21 119:3 123:24 124:21,21,22	125:9 126:25 127:8 130:22 131:11,13,17,19 131:24 132:2,6 133:3 137:14 139:5,9,10,10 140:3,11 144:12 144:17,22 145:2 145:17 146:2,6 146:12,24 148:15,18 149:3 150:16 edgewood's 49:10 139:11 140:9 edits 27:14 education 11:3 52:14 54:6 64:5 76:11 78:14,15 educational 10:23 educations 75:6 effect 139:2 ehs 44:17 45:8 45:18 46:18 47:9 63:22 72:23 75:14 111:21 112:9 ehs's 44:15 72:25 73:19 75:4 ehs1825 3:7 either 58:13 69:1 106:24 133:23 137:16 142:7 elements 22:19 88:14	elevator 112:23 elliott 4:4 15:25 28:19 44:4,8,17 47:9,19 49:1 53:5 63:10 65:11 73:6 75:3 93:1 94:19 96:12,22 98:6 111:17 113:4,18 114:2,15 115:10 115:18 116:3 117:10,12 128:14 130:8,14 150:11,23 151:4 151:10 elliott's 45:3 48:1 72:18 email 3:5,7,8,17 3:18 4:7,8,10,12 4:13,14,15 18:25 55:2,7,11,13 59:16 60:5,14 62:20 63:4,6,9 65:9,10,10,12,14 65:17 89:24 90:1,3,5 91:12 94:12,14,17,25 95:5,14 96:3,16 96:22 97:2,23 98:5,8 100:2,6,9 101:24 102:10 105:18 107:7,8 107:14 108:3,3,6 108:8,9,18,22 113:16,17,20,25 114:1,8 129:23 130:1,7 150:23	emails 79:19 94:21 employed 53:23 employee 30:22 37:13,14 154:15 154:16 employees 38:22 135:18 137:20 enactment 16:23 17:18,20 ended 50:2 105:13 engagement 17:4 129:13 engagements 130:22 entire 89:16 entirely 25:3 52:20 128:9 152:24 153:2 entities 12:25 13:12,14,15,17 13:23 14:3 20:1 23:1 42:22 148:22 150:16 environment 10:16 erect 59:10 error 23:8 estimates 131:8 et 1:6 eternity 68:6 events 80:17 102:9,25 103:22 116:14 118:23 eventually 51:15 134:7
--	---	---	--

[evers - field]

Page 12

evers 70:14 138:9,16,23 139:4 140:3 everybody 10:22 110:12 134:1 141:6 evidence 93:6 147:7 exactly 84:6 127:19 exam 11:24 examination 2:17,18,19,20,21 5:6 77:12 140:19 151:18 153:16 examined 5:4 example 16:9 examples 76:11 exception 38:20 133:23 exhibit 3:3,5,6,7 3:8,10,11,13,15 3:17,18,20,21,22 4:3,4,5,7,8,10,12 4:13,14,15 5:14 5:16 7:18,19 20:4,9,10,11,18 25:8,10 29:4,7 29:25 32:25 34:12,15,20 36:1 36:8,10,14 37:23 37:25 38:9,14 39:6 43:25 44:3 48:5,7 49:8 51:6 54:22,25 55:1 58:4 59:15 60:1 60:4,5,7 61:4	62:17,20 64:10 64:14 65:6,9 66:8,11 68:16,19 68:24 69:13,24 70:11,13 72:17 77:14,19,19,21 78:17 79:15,15 80:11 81:14,16 83:3 86:11,14 89:21,24 93:11 94:10,13 95:2,4 98:4,18 99:3,25 100:3 104:12 105:16 107:4,6 107:25 108:2,8 109:20 111:15 111:16 113:10 113:12 114:15 118:14 119:20 119:22 120:15 128:7,8,12,16 129:20,22,23 142:19,23 149:8 150:22 151:6,20 151:22 exhibits 4:22 existing 10:15 46:6 88:5,16 113:23 114:11 115:5 expand 12:17 expanding 110:9 expansion 10:12 expect 68:5 experience 15:23 67:15,20 72:9 126:13 149:2	experiences 72:13 expires 154:25 explain 17:3 109:23 explored 118:9 express 70:9 73:23 75:9,25 138:16 139:1 expressed 73:19 137:12 extent 6:10,17 6:24 7:13 80:8 f f 154:1 face 18:25,25 19:2,2 facilitate 44:21 59:25 facilities 10:17 12:17 15:24 68:13 87:25 88:4 91:2 132:9 144:7 150:18 facility 13:6 15:18 75:16 79:8 132:7 144:13,18,23 145:3,4 facing 114:17 fact 18:13 32:15 33:19 71:14 73:6 74:25 82:4 82:22 facts 93:6 147:6 fair 14:20 32:12 32:25 36:14	37:5 39:14,20 41:11 45:10 47:4 120:2 122:17 123:7 125:7 149:14 fairly 74:21 76:8 131:14 familiar 74:23 86:15 109:2,2 116:17 118:4 familiarity 52:6 familiarize 86:22 87:4 family 11:17 far 23:4 32:20 38:5 42:9 51:19 52:25 72:11 74:18,19,21,21 80:7 84:13 129:4 147:22 feasibility 10:4 features 116:12 february 60:16 121:4 146:2 feedback 19:20 19:22 23:9 32:23 34:10 43:6 52:25 54:1 59:23 feeder 60:24 feel 8:4 82:1 142:13 146:17 152:21 153:7 feelings 70:9 felt 71:19 82:25 140:5,5 field 11:20 52:12 53:25 54:10,14
---	---	--	--

[field - forth]

Page 13

56:17,22 57:2,2 57:12,17 59:2,3 59:10,11 60:19 60:21,23 61:7,25 64:4 69:14 70:21 71:2,15 73:20,24 74:6,13 74:19 75:1,5,15 76:2,8,9 77:24 78:4 79:8,18 80:1,6,23 81:5,8 81:18,18 82:5 90:8,14,22 91:14 98:24 102:6,7,8 102:11,19,24 103:22 104:5 116:13,25 117:14,22 118:3 118:7,10,12,19 119:1,14 120:3 120:19,24 121:5 121:13,15,20,22 122:1,8,13,19,24 123:2,9,14,22 129:5 132:10 144:12,17,22 145:3,17 147:20 147:21 149:4,10 149:12,15 152:17,24 153:1 fields 71:21 74:9 78:12,14,19,24 79:4,9,10 80:16 118:20,22 119:12 132:11 file 93:15 94:5 98:9	filed 20:14 filing 20:13 93:17,22 94:8 final 25:22 64:20 94:18,20 95:21 95:25 98:9,12 financially 154:17 find 84:7 107:11 127:15 fine 15:9,13 43:24 finish 6:17,19 firm 11:15 29:14 40:4,24 41:22 50:21,24 56:7 96:9 first 5:4 11:8 23:3 24:1 26:18 27:13 41:20 48:13 55:13 66:18 77:22,22 78:16 81:23 93:2 96:21 97:4 107:8 108:9 114:14 120:15 129:23 130:7 fitchburg 132:7 five 33:10 50:15 77:10 97:24 flanagan 63:10 94:15 100:15 flip 64:2 134:8 floor 2:7 floors 115:6 florida 10:25 11:4	fluid 68:7 83:6 83:13 focus 79:9 81:2,5 81:17 118:19 focused 86:5 119:12 150:17 152:23 153:2,8 foley 65:11 folks 39:16 follow 134:13 following 88:14 follows 5:5 90:5 football 60:20 74:17 90:7,14,22 102:6,7,11,19 121:17 forgotten 50:25 form 12:7 14:23 16:7,18,25 18:4 19:8,16 21:12 24:10,21 27:3,16 28:11,18 29:23 30:13,19 31:4,5 32:17 33:5,23 35:18 36:4,17,23 38:11,25 39:23 41:1 42:1 43:1 45:4,11 46:1,12 46:22 47:7 48:2 49:17 50:11 51:17 52:23 53:11 54:16 56:9 59:5,12 61:20 62:3,10,16 63:18 66:5,14 67:1,17,25 68:15 70:2 71:4,11 72:3,15 73:8,25	75:11 76:3,17,22 77:5 78:5,25 80:2,12 81:25 85:7,24 86:25 89:10 91:17 92:4 93:5,12,23 99:13,23 101:7 102:14,22 103:5 103:23 104:6 105:3,10 106:11 106:19 107:19 109:7,21 112:17 115:13,21 116:15 117:15 119:6 120:4,25 121:6,23 122:4 122:20 123:10 123:16 124:15 125:10,16 126:6 126:16 127:4 128:19 129:1,17 130:16 131:16 134:21 135:4 136:18 137:23 138:2 139:22 141:4,21 142:17 143:9,17,25 144:9,14,19,24 145:7,21 146:8 147:5 148:7,23 149:6,16 150:4 150:19 152:19 153:5 formal 142:7 formalized 77:2 formally 98:25 forth 98:13
--	--	---	--

[forward - h]

Page 14

forward 15:1 56:1 73:20 98:16 100:25 153:19 found 145:11,14 153:10 foundation 18:5 19:17 21:4,13 24:22 25:2 28:1 30:20 32:18 35:19 36:24 37:12 39:12 42:2 43:2 45:5 45:12 46:2,13,23 48:3,22 49:18 52:19 53:12 66:6 68:1 70:3 73:9 76:4 95:17 96:14,24 101:8 101:19 102:15 105:25 106:21 107:15 109:22 122:21 126:7,17 129:18 143:18 144:1 145:22 146:9 147:6 148:24 four 11:3 33:10 41:24 47:10 108:14,15,19 109:19 111:21 friday 95:12 front 13:10 25:7 25:14 51:7 114:18 full 75:15 further 77:7 151:14 153:15	154:9,14 future 10:12,13 10:16,18,19,22 17:16 22:4 23:15 34:4 40:8 47:10 57:7 68:3 82:6 88:21 97:9 110:6 111:21 115:4 132:2 g g 2:7 5:10 55:16 gainesville 11:12 games 56:22,22 57:2,3,4,6,7,11 57:17 59:4,4,11 60:18 62:6,13 74:12,16,17,17 75:1 80:17 81:8 90:10 99:2,8,12 99:17 118:23 119:23 120:3,5,7 120:9,12,12,13 120:19 121:5,14 121:16,16,17,17 121:20 144:22 145:5 147:12 149:3,10 gathering 39:22 general 47:15 generally 10:8 16:4 30:1 47:17 64:6,10,14 153:10 george 1:16 154:4,24 getting 23:9 52:25 63:2	115:24 137:6 147:19 girls 60:19 give 8:17 10:23 12:3 33:16 75:20 92:5 127:11 given 42:16 67:20 68:4 giving 98:8,11 98:13 gklaw.com 2:4 go 6:1,2 9:9 18:7 19:11 51:8 72:17 78:6 83:1 87:8 91:10 93:6 94:22 96:16 113:16,23 115:4 115:14 116:16 117:2,5 118:1 127:5 128:20 129:6 137:23 140:18 141:2,17 142:2,7,9 147:8 150:10 151:2 godfrey 1:11 2:2 154:10 goes 44:17 46:16 73:19 74:21 75:13 126:21 147:23 going 7:7 8:13 15:1 19:12 20:17 29:6 34:14 59:15 65:8 73:20 88:16 98:13 122:11 123:21	129:2 146:14 153:19 good 5:8 11:25 23:3 43:22 49:21 55:11 94:22 135:24 136:11 137:2 147:16 govern 44:21 governor 54:4 grading 22:21 graduated 11:14 granted 92:22 graphic 22:6 great 6:10 green 22:16 33:11 34:2,6 53:14,15 54:3 55:25 56:6 63:25 ground 6:1 groups 10:21 guess 9:7 34:8 51:19 64:23,24 82:20 103:12 120:13 121:21 141:5 guesses 52:22 guessing 69:18 77:20 guidance 23:1 guide 10:18 23:15 h h 3:1 4:1 5:10,10 55:16
--	---	---	--

[hah - impact]

Page 15

hah 6:12 hahs 6:6 hall 13:5,6,7 29:2,2 131:3,5 hand 21:22 29:6 34:14 37:25 44:2 63:22 65:8 133:2,2,10,13,19 134:18,19 135:10 154:19 handing 5:16 20:8 36:10 48:7 54:24 60:3 62:19 66:10 68:18 86:13 89:23 94:12 95:4 107:6 108:2 113:12 129:22 handwriting 25:14 56:12,14 99:5 119:23 handwritten 20:9 56:19 hang 132:21 happened 60:9 122:24 happens 7:9 123:2 hard 37:19 68:6 harder 62:7,14 heading 63:24 133:1 134:12,24 headings 38:8 heads 6:6,6 hear 57:9 73:23 75:9,25 125:13 137:12,16	hearing 98:22 129:16 heart 1:3 heather 136:24 137:2 heavily 32:22 height 114:20,24 114:25 115:5 help 23:15 37:20 38:18 134:1 helped 59:24 66:19 helpful 135:25 helping 51:15 63:16 hereunto 154:19 heritage 54:4 hey 62:12 high 1:2 10:24 10:25 13:9,11,16 15:8,15,16,19,25 21:3,5,16,17 22:3 28:15,23 30:18,22 33:1 35:10,10,16 36:21 37:5 39:7 39:21 40:2,3,3,6 40:7,13,15 41:10 41:19 42:10,11 42:13,24 45:24 48:14 49:5 50:2 52:13 54:3 56:21 57:10 59:19 60:25 61:6,23 62:5 64:4 65:3 74:7 79:23 82:24 92:11,13,20,24	93:19 96:10 97:9,16 98:9,23 99:11,21 103:22 108:25 112:14 113:22 114:6 115:11 116:10 116:22 117:6 118:8 124:21 125:14,20 127:20,24 128:17 130:8 132:3,4 138:13 139:10 148:20 150:24 151:4 highlight 53:14 highlighting 122:11 hindsight 122:5 141:7 historic 131:3 history 10:24 12:5 147:17 holder 141:1,17 holding 144:17 144:22 147:12 holds 145:4,5 home 59:3 60:21 90:10 honest 136:2,22 145:12 honestly 69:5 hope 28:5 hospital 17:9 host 59:3,4,11 60:22 hs 35:9 37:2 56:21	hum 13:13 59:17 105:21 humanity 13:3 hurray 96:1 hursh 1:10 2:16 5:3,8,10 29:6 31:10 36:10 38:1 44:2 48:7 54:24 60:11 66:10 68:18 92:5 95:21 116:10 120:17 136:19 140:21 hyphen 31:15 hypothetical 89:11
i			
idea 61:15 150:16 ideas 68:3 identical 85:19 identified 7:20 47:10,11 66:4 73:1,1 86:2 87:20 89:7 96:9 111:21,23 148:19 identifies 143:15 identify 61:16 143:7 identifying 68:6 ignorance 11:19 illegal 81:7 imagine 139:13 immediate 46:3 impact 53:8,13			

[importance - institutional]

Page 16

importance 150:1	indicate 137:13	48:6,24 49:25	125:16 126:6,16
important 122:2	indicated 120:18	50:13,15,18	127:4,13 128:19
122:6,7,14	indirectly 154:17	51:21 52:21	129:1,17 130:16
impression 126:14	individual 96:8	53:3,17 54:23	131:16 132:21
impressions 70:25	110:20	55:6 56:11	132:23 134:21
include 10:3	indoor 144:6	58:16,18,19 59:7	135:4 136:18
19:5 40:10 59:2	inform 72:23	59:14 60:2	137:23 138:2
61:14,19 69:20	109:13	61:22 62:4,11,18	139:22 140:17
69:20 79:8 82:6	information	62:23 63:20	140:20 141:12
82:18 87:18	19:3 23:13 32:7	65:7,25 66:9,15	142:11,18
88:14 97:11	39:22 41:21	67:2,11,19 68:9	143:11,21 144:2
102:1 113:8	63:2 79:21	68:17 69:12	144:10,16,21
120:13 124:5	88:14 97:10,15	70:6,12,24 71:5	145:1,10,25
included 17:7	108:14 122:2	71:17 72:5,16	146:20 147:10
21:18 22:22	124:12 126:22	73:12,18 74:2	148:8 149:1,7,25
23:6,15 40:21	130:9,10,15	75:12 76:6,18,24	150:9,21 151:14
58:1 68:13 86:8	informational	76:25 77:7 78:5	152:19 153:5,21
90:1 91:25	41:8	78:25 80:2,12	initially 51:14
112:22 124:22	informed 73:6	81:25 82:3,8,12	initials 31:24
includes 88:4,17	ingrisano 2:2,17	84:10 85:7,21,24	35:9
including 22:20	2:19 4:23 5:7,15	86:25 89:10	input 32:7,21
83:24 86:2,7	8:2 12:10 14:24	91:17 92:4,8	57:1 72:10 83:8
87:20 97:14	16:8,20 17:2,24	93:5,12,23 95:17	129:5
116:12,12	18:6 19:10,24	96:14,19,23	inserted 133:17
inclusion 89:2	20:5,12,16 21:9	98:19 99:13,23	insignia 29:17
113:5	21:20 24:13,24	101:7,14,17,19	inspection 142:4
inclusive 68:5	25:5 26:22 27:5	102:14,22 103:5	institution 21:10
income 110:11	27:21 28:4,12,20	103:23 104:6	47:16,21 75:15
incomplete 89:11	29:5,24 30:16	105:3,10,25	83:7
incorporates 57:22	31:1,6 32:24	106:11,19,21	institutional 3:4
incorrect 27:11	33:6,24 34:13	107:15 109:7,21	16:23 17:7,20
28:7 137:22	35:20 36:5,9,19	112:17 115:13	18:2,14 23:5
138:18	37:1,16,24 38:12	115:21 116:5,15	24:4,7,19 25:22
	39:3,4,13,25	117:15 119:6	26:6,12,24 27:8
	41:5 42:3 43:9	120:4,25 121:6	66:21 67:5
	44:1 45:7,16	121:23 122:4,20	75:14 86:18
	46:7,15,25 47:8	123:10,16	127:1,9 143:8,16
		124:15 125:10	144:6

[institutions - jean]

Page 17

institutions 21:7 22:5 30:25 34:10 39:18 40:18,19 68:12 79:11 80:9 81:1 83:9,19 93:18 94:4,5 110:3,3 110:18,20 118:21 125:25 126:4,15,20 intend 46:16 75:4,20 intending 56:24 intent 54:17 61:13 71:9 75:9 75:25 79:3 intentionally 61:24 intentions 115:4 interacted 109:9 interacting 40:1 interaction 39:20 interest 148:21 interested 128:23 154:17 interior 10:1,3 intern 11:13 internal 65:10 interpret 141:25 142:5 interpretation 67:14 73:7,15 75:22 82:25 117:21 127:22 137:21 138:5,8 138:17 140:22 141:3,7,19	interpretations 141:9 142:10 interpreted 66:3 69:19 72:24 82:21 138:22 interpreting 69:21 interruption 17:22 involved 10:8,20 12:14 14:12 15:19 16:21 19:21 20:1,21 28:25 29:1,3 33:16,25 40:16 40:23 45:15 49:10,15,20 57:19 63:16 76:19 77:3 110:23 135:20 involvement 17:4 19:13 25:21 44:18 45:9 47:20 49:22 involving 76:20 ish 9:14 issue 71:1 102:20 146:24 147:4 issues 40:20 100:17,21,24 101:25 138:14 item 53:5,24 54:2 104:1 items 39:11	j january 3:20,21 66:16 68:22 77:16 108:7 118:16 127:16 128:2 jean 2:7,18,20 2:21 12:7,9 14:23 16:7,18,25 18:4 19:8,16 21:4,12 24:10,21 25:2 27:3,16 28:1,11,18 29:23 30:13,19 31:4 32:17 33:5,23 35:18 36:4,17,23 37:12 38:11,25 39:12,23 41:1 42:1 43:1 45:4 45:11 46:1,12,22 47:7 48:2,22 49:17 50:11 51:17 52:19,23 53:11 54:16 56:9 58:14 59:5 59:12 61:20 62:3,10,16 63:18 66:5,14 67:1,17 67:25 68:15 70:2 71:4,11 72:3,15 73:8,16 73:25 75:11 76:3,17,22 77:5 77:13 78:8 79:6 80:4,15 82:9,15 84:11,17 85:4,12 86:12 87:3,13 89:15,22 91:18	92:9 93:9,14 94:1,11 95:3,19 96:15,20 97:1,18 97:20,24 98:3,20 98:21 99:18 100:1,8 101:10 101:16,18,23 102:18,23 103:3 103:8 104:2,3,8 104:11 105:6,15 106:2,13,14,25 107:5,22 108:1 109:8,24 113:3 113:11 115:17 116:1,7,9,19 117:17 119:15 120:6 121:3,10 121:25 122:9 123:4,12,23 124:18 125:12 125:22 126:12 126:23 127:7,14 127:17 128:24 129:8,21 130:20 131:18 132:22 132:24,25 134:3 134:6,23 135:7 136:21 138:3 140:1,15 141:4 141:21 142:17 143:9,17,25 144:9,14,19,24 145:7,21 146:8 147:5 148:7,23 149:6,16 150:4 150:19 151:16 151:19 152:25 153:9,15,17,25
--	---	---	---

[jim - liaison]

Page 18

jim 15:22 16:9 jingrisano 2:4 job 1:25 11:8 44:19 jonathan 2:2 judge 4:5 28:21 28:25 48:8 55:24 59:19 121:11 149:9 july 50:2 june 4:6 36:1 44:6 48:9 50:12 50:14 127:11,15	37:19 40:16 41:12 45:14 52:17,24 55:9 69:1,4 71:23 82:22 83:20 84:2,5,19 85:10 85:15,16 86:4,9 90:13,21 92:21 96:12 98:12 100:21 102:16 103:4,9 107:12 107:13 111:10 112:22 117:1,11 117:20 121:19 126:21 128:2,6 128:11 130:14 131:20,22 132:8 132:10 133:5,23 139:15,16,19 141:10 143:10 148:10,21 149:8 149:20 knowing 122:1 knowledge 23:14 30:17 68:11 73:13 107:1 115:19 118:8 128:16 131:10 148:9 149:12 knowledgeable 136:13 145:14 known 109:9 knows 10:22	labels 29:13 lacrosse 60:22 land 88:17,21 109:14,15 110:2 110:4,5,12,19 111:2,8,13 152:9 landscaping 22:16 33:11 63:25 lane 8:20 language 27:11 52:17 61:19 64:7,13,19 65:4 85:20 87:15,18 128:3,6,8 134:25 135:2 lardner 65:11 large 54:3 late 14:15 31:4 54:5 latest 100:17 lawson 1:10 2:15 5:2,18,22 7:20 8:6,9,21,24 9:2 9:11,19,24 11:5 11:18 12:3 14:2 14:6,19,25 15:7 16:3,5,16,21 29:12,13,16,20 31:18 34:16 55:25 67:21 82:17 92:15 93:15,17 100:10 128:12 130:5,21 131:9,14 133:19 134:20 147:18 148:14,16	lawson's 12:4 13:21 17:3 lead 9:3 15:16 21:11 31:2 66:19 125:24 leaders 40:19 94:4,8 124:21 leadership 40:23 41:24 43:5 leading 47:3 learning 148:13 148:16 leave 54:25 left 6:3 38:5 133:2,10 134:18 legal 89:11 93:24 108:19 145:8 146:9 letter 3:20,21,22 23:22,23 24:1 26:1 66:12,18 68:19 70:13,25 77:15,16 85:9 117:23 127:11 127:18,23 128:1 128:2,17,25 129:7 133:7,8,14 133:17 134:18 138:11 141:13 letters 69:1,2 70:7 71:6,7 138:12 letting 85:10 level 60:19,20,23 liaison 22:10 42:15,19 43:12 90:8 123:25 125:6
k			
k 3:1 4:1 kahn 1:11 2:2 154:10 kathleen 63:9 105:17,23 kept 98:13 kind 10:22 14:18 15:1 16:3 18:24 19:12 21:23 22:24 31:2 36:16 67:22 72:11 74:16 111:1 142:14 knew 118:6 126:18,19 149:2 149:8 knothe 11:16 know 7:15 9:16 10:13,14 13:18 17:10 19:13,18 22:18 23:7 28:25 30:8 31:17,24 35:9,13	knowing 122:1 knowledge 23:14 30:17 68:11 73:13 107:1 115:19 118:8 128:16 131:10 148:9 149:12 knowledgeable 136:13 145:14 known 109:9 knows 10:22		
	I		
	I 1:16 3:1 4:1 154:4,24		

[liberal - louis]

Page 19

liberal 11:2	live 74:8,10,18	150:14	76:3,17,22 77:5
library 96:1	74:19 122:25	looks 30:4 34:23	77:13 78:8 79:6
license 12:1	lived 74:11,20	51:22 55:11	80:4,15 82:9,15
light 64:6,10,14	74:24 119:16,17	56:8 60:9 63:10	84:11,17 85:4,12
116:12 146:3,24	122:17,23 123:7	98:11 102:16	86:12 87:3,13
lighting 145:18	living 74:13	143:19	89:15,22 91:18
147:1	149:2	losing 110:11	92:9 93:9,14
lights 57:16,18	llc 51:5	lot 23:13 92:20	94:1,11 95:3,19
59:3,10 90:9,16	llp 2:6	141:24 149:23	96:15,20 97:1,18
90:24,25 91:13	located 1:12	lots 12:16	97:20,24 98:3,20
91:20,23 98:23	81:4	loud 64:3 66:18	98:21 99:18
99:1 102:7,19	location 60:17	90:6	100:1,8 101:10
104:4 116:12	61:5,6,10,11	louis 2:7,18,20	101:16,18,23
146:7,13 147:21	long 9:10 22:2	2:21 12:7,9	102:18,23 103:3
147:24 148:5,12	look 8:13,16	14:23 16:7,18,25	103:8 104:2,3,8
limit 53:21 61:24	20:17 21:23	18:4 19:8,16	104:11 105:6,15
66:3 75:4 79:3	29:9 32:10 33:9	21:4,12 24:10,21	106:2,13,14,25
limitation 73:23	44:13 51:6	25:2 27:3,16	107:5,22 108:1
limitations 76:12	52:11 58:3,9	28:1,11,18 29:23	109:8,24 113:3
limited 39:21	63:21,23 77:14	30:13,19 31:4	113:11 115:17
73:20 117:13	77:21 78:13	32:17 33:5,23	116:1,7,9,19
line 24:1 32:4	86:14 97:25	35:18 36:4,17,23	117:17 119:15
33:10 66:18	98:4 99:3 101:9	37:12 38:11,25	120:6 121:3,10
71:13,16	101:11 111:15	39:12,23 41:1	121:25 122:9
list 36:16 38:2	131:7 135:2	42:1 43:1 45:4	123:4,12,23
71:14,23 78:9,10	142:19 143:12	45:11 46:1,12,22	124:18 125:12
82:4 107:12	150:22	47:7 48:2,22	125:22 126:12
111:2,7 143:19	looked 50:20	49:17 50:11	126:23 127:7,14
listed 54:13,20	77:15	51:17 52:19,23	127:17 128:24
76:11 104:18,20	looking 7:18	53:11 54:16	129:8,21 130:20
104:23 109:20	10:12,14 21:21	56:9 58:14 59:5	131:18 132:22
111:6 134:14	25:7,10,12 29:25	59:12 61:20	132:24,25 134:3
listing 69:13	32:25 35:7	62:3,10,16 63:18	134:6,23 135:7
108:15,18	36:20 40:5 50:6	66:5,14 67:1,17	136:21 138:3
lists 50:7 102:1	51:1,22 59:1	67:25 68:15	140:1,15 141:4
litigation 44:8	61:4 64:7 68:3	70:2 71:4,11	141:21 142:17
little 44:18 45:8	69:8 105:16	72:3,15 73:8,16	143:9,17,25
88:9 107:20	131:2,4 132:11	73:25 75:11	144:9,14,19,24

[louis - master]

Page 20

145:7,21 146:8 147:5 148:7,23 149:6,16 150:4 150:19 151:16 151:19 152:25 153:9,15,17,25 love 90:9 118:15 lower 60:19,20 114:17,18 115:6	main 1:12 2:3 16:1 41:10 86:4 97:8 115:5 139:16 154:11 maintained 22:17,21 maintenance 90:23 91:3 major 104:1 making 43:7 61:17,18 112:22 122:8 malone 63:10 manner 125:3 map 59:21 marathon 7:13 mark 56:23 119:24 120:8,9 marked 5:14,16 20:4,8 29:4,7 34:12,15 36:8,10 37:23,25 43:25 44:2 48:5,7 54:22,25 60:1,4 62:17,19 65:6,8 66:8,10 68:16,18 70:11,13 79:14 86:11,14 89:21 89:23 94:10,13 95:2,4 98:4 99:25 107:4,6,25 108:2 113:10,12 129:20,22 marshall 131:3 mary 14:6,14,19 16:4 100:10,16 147:17 148:14 148:16	massing 97:9 114:6,9,10,16 115:24 116:3 150:10,11,15 master 3:6 8:13 10:3,7,8,9,10 12:18,20,22,23 13:19 14:12 17:8,13,15,25 18:13 19:4,6 20:6,19,25 21:3 21:6,19,25 22:19 22:23 23:2,3,7 23:13,15 26:10 26:14,15,25 27:7 27:15,18,20,23 27:24 28:7,13,21 29:2,21 30:2,24 32:6,8,16 33:3 33:21 34:11,24 35:5 37:18 38:9 39:17 40:10,13 40:22 42:18 43:18 44:16,19 44:19 45:9,19,23 46:9,18 47:3,10 49:11 50:9 51:7 52:18 53:7 55:21 57:13,14 57:19,22,24 61:12 62:6 63:3 64:8,11 66:2,4 66:20,24 67:3,14 67:20,21,24 68:2 68:4,5,7,13 71:9 71:19,25 72:8,9 72:12,23 75:21 76:20 77:2,3	78:3,3,10,22 79:5,7 81:2,2,7 82:17 83:5,12,14 83:17,22,23,24 84:2,13,20 85:5 86:10,23 87:6,16 87:19 88:6,10,13 89:2,7 91:6,8,9 91:15,21,25 92:1 92:16 93:8,11,22 94:3,18 95:22 97:8,12,15 98:9 100:25 101:6,22 102:9 103:1,11 103:12,14 105:13,19,24 109:4,11 110:1,8 111:6,7,11,22 112:10,15 113:5 115:11,20 116:2 116:11,24 117:12 118:1,11 119:2 122:3 123:14,20 124:2 124:10,23 125:19,25 127:23 132:16 133:9 135:12,14 136:25 137:6,21 138:5,13,18 139:2,5,11 140:6 140:7,12,23 141:1,14,16,20 143:1 145:19 146:4,7,11,11,18 146:23,25 147:2 147:16 148:1,6 148:11 149:14
m			
m 3:1 4:1 machine 6:5 madison 1:6,13 2:3,8 8:22 12:5 18:12 27:14,22 27:24 41:6 53:23,24 65:13 66:1 68:10 154:11 madison's 136:16 maggie 30:11 35:5 39:14 42:16,22 53:2 63:6 90:3 91:12 94:14,24 95:13 96:3,4,22 97:7 100:9 103:4,10 104:20 107:8 108:4,9 113:18 114:1 125:1,4,7 125:13,23 126:14 129:24 139:16 maggie's 90:5 101:24			

[master - moved]

Page 21

150:17 152:3,10 152:14,17 match 61:11 114:25 materials 8:11 matt 18:17 69:23 90:17 117:21 127:21 140:21 145:11,16 146:1 146:2,6,23 matt's 147:9 matthew 65:12 136:8,10,12,15 136:22 137:12 137:20 138:4,8 138:17 max 115:6 mazzuchelli 13:5 mbc 30:8 32:5 34:25 mean 9:1 30:21 37:5 45:13 57:4 72:8 80:18 82:16,19 83:12 84:19 85:8 86:20 90:25 98:11 99:15 106:23 120:11 122:22 125:17 127:24 135:15 149:18 meaning 112:18 112:25 means 6:5 51:2 meant 6:12,13 35:3 53:19,21 71:20,23 72:1 83:6,12 103:4	mechanism 91:7 meet 26:25 27:7 60:23 83:18,18 83:19 126:9 meeting 40:16 41:13 42:18,19 65:20 129:6,10 129:12,15 140:7 140:12 meetings 19:2 22:9 40:17,18,23 41:8,14,25 42:14 42:20,21 43:5,13 43:19 123:24 124:20,25 125:5 125:6,15,18 126:13 members 124:2 memorandum 57:24 58:5,20 100:22 101:3,5 102:12 mention 13:18 82:23 86:4 mentioned 9:22 9:23 10:7 11:5 13:12 16:9,14 55:20 81:9,18 92:10 102:12 110:25 117:25 124:19 145:11 mentioning 138:12 mentor 9:8 merit 154:4 met 22:3,7,11 40:7,24 125:2 126:19	michael 4:4 15:25 28:17,19 44:3 49:1 65:10 93:1 96:3,21 98:6 111:17 113:17 114:2,15 115:2,18 116:3 117:10,11 mid 13:23 131:11,15 middle 6:24 60:23 96:2 112:7 134:13 middleton 8:20 132:10 mike 53:4 63:10 94:19 97:7 105:17,23 113:4 115:10 128:14 130:8,14 150:11 150:23 151:4,10 miles 74:22 milwaukee 154:3,20 mind 69:24 minds 53:14 mine 56:15 minute 77:10 97:25 minutes 50:16 mischaracterizes 82:13 116:16 127:5 misinterpretati... 69:25 81:9 140:22 141:6,14 misinterpreted 142:1	misinterprets 141:1,16 misleading 153:6 misstate 41:20 misstates 42:2 141:22 144:1 misunderstand... 115:3 mlu 101:14,17 model 114:10 models 114:19 modification 142:15 modifications 46:6 modified 83:7,13 84:20 modify 118:1 131:8 138:13 139:7 140:6 modifying 23:10 moment 70:18 money 110:10 monroe 74:8 119:17 122:18 123:8 147:19 149:3 monthly 40:17 months 102:8 moravec 15:22 16:9,12 morning 5:8 move 98:16 100:25 moved 11:14,14 147:20
--	---	--	--

[multi - objection]

Page 22

multi 11:17	42:15,19 43:8,13	99:17 120:5,11	30:13,19 31:4,5
munson 66:16	62:7 65:18,20	121:17 147:12	32:17 33:5
67:13 69:3	74:9,10,11,14,21	nods 6:6	35:18 36:4,23
118:6 127:25	74:24 79:11	noise 22:14	37:12 38:25
mutual 40:20	80:1 82:21	nonuse 78:18	39:12,23 41:1
n	83:18 91:22	notary 154:5,24	42:1 43:1 45:4
n 2:1,13 4:1	100:24 102:1,2	notation 20:10	45:11 46:1,12,22
name 5:9,10	118:20 119:16	32:4	47:7 48:2,22
40:24 41:3	123:3,8,24 124:6	notations 31:12	49:17 51:17
50:20,24 87:5	124:9,13 125:6	31:14 56:19,25	52:19,23 53:11
names 137:10	137:11 138:14	note 20:9	54:16 59:5,12
narrative 35:4	146:13,19 149:3	noted 101:25	61:20 62:3,10,16
navigate 90:16	neighborhood's	notes 29:14	63:18 66:5,14
necessarily	22:12	november 3:13	67:1,17,25 68:15
32:20 61:14	neighborhoods	3:15 36:11 38:1	70:2 71:4,11
122:18	42:19 119:9	number 3:2 4:2	72:3,15 73:8,25
necessary 23:11	140:7	22:14 51:4	75:11 76:3,17,22
89:9 153:4	neighbors 57:16	52:12 53:9	77:5 78:5,25
need 7:14 10:17	57:23,25 74:24	90:18	80:2,12 81:25
22:21 43:23	82:24 83:8	numbered 51:24	82:8,12 85:7,24
83:16 102:9,25	91:24 99:21	52:1,2 84:23	86:25 89:10
103:18 112:21	118:25 119:4	numbers 7:24	91:17 92:4,6
114:5,10 127:15	126:14,18	o	93:5,12,23 95:17
131:5 146:25	140:13 146:15	o 3:1 5:10 55:16	96:14,19,23
152:18	147:11,23,25	oaks 54:2,11,12	99:13,23 101:7
needed 32:21	148:15	oath 5:4	102:14,22 103:5
40:20 66:20	never 119:11	object 6:23 12:7	103:23 104:6
67:4 85:10	122:23	12:9 14:23 16:7	105:3,10,25
98:15	new 17:6,20	16:18,25 19:8,16	106:11,19
needing 145:18	19:12,19,22 35:8	21:4,12 24:10,21	107:15 109:7,21
146:3	44:19 81:3	25:2 27:3,16	112:17 115:13
needs 83:7 110:7	90:13 113:21	28:11 29:23	115:21 116:15
negotiations	130:4 147:19	33:23 36:17	117:15 119:6
147:22	149:22 151:6,11	38:11 50:11	120:4,25 121:6
neighbor 123:13	152:22	56:9 101:19	121:23 122:4,20
neighborhood	night 56:22 57:3	objection 7:1	123:10,16
22:8,10,16 42:14	57:4,5,6,11,17	18:4 28:1,18	124:15 125:10
	59:4,11 99:7,12		125:16 126:6,16

[objection - ownership]

Page 23

127:4 128:19 129:1,17 130:16 131:16 134:21 135:4 136:18,19 137:23 138:2 139:22 141:4,21 142:17 143:9,17 143:25 144:9,14 144:19,24 145:7 145:21 146:8 147:5 148:7,23 149:6,16 150:4 150:19 152:19 153:5 objections 73:16 observations 46:11 observe 74:6,12 obtain 94:7 obtaining 134:14 occur 22:7,13 25:22 occurred 50:10 71:24 110:15 116:20 127:19 october 3:11 4:8 34:17 65:12 95:1,9 98:24 office 9:7 17:10 154:20 offices 154:10 officials 138:7 oh 9:12 130:25 okay 5:11 6:8,13 6:20,21 7:2,3,12 7:16,23 8:1,6,10 8:16 9:17,22	10:23 12:12 13:12 14:5,17 15:11,21 16:2,14 18:19,22 19:6,25 20:6 21:10,21 22:24 23:19,22 24:14 26:21 29:11 31:22 34:7,14,22 35:11 35:24 37:4,17 41:16 43:10 44:7,9 46:8 48:25 50:14 51:1,11 52:5,22 53:18 54:2 55:10 56:24 57:9,19 58:10 60:10 64:7,18 65:2,24 67:10 69:11 70:7,23 71:22 72:19,21 77:9 78:16 79:16 81:6 83:24 84:7,18 85:13 86:13 87:12 89:20 90:25 91:4 92:6 92:14,21 93:10 94:25 95:10 96:18 97:14,22 100:16 101:1,18 101:24 102:10 103:19 104:2,8 104:13,14 107:23 109:2 110:14,16,25 111:18,20 113:4 113:25 116:22	117:4,18 125:2 125:23 128:6 132:15,19,24 134:2 142:21,24 143:13 145:2 148:5 old 131:2 147:16 149:22 once 6:16 34:8 38:20 91:6 95:24 147:18 ones 123:1 open 33:11,20 34:2,5 35:24 36:6 37:7,18 38:13 51:8,11,24 52:2,2 53:5,9,14 53:16,20,24 54:19,25 61:13 61:16 63:25 66:3 68:12 79:4 81:19 86:3 87:21,21 88:23 88:24 89:6 99:7 150:6,6 151:12 152:12,13 openness 102:7 operate 72:24 opinion 70:1 117:1,4,6,9,24 123:6 138:21 140:11 145:9,16 146:10 opposed 106:8 106:17 option 118:9 orally 137:20	order 17:15,16 19:3 66:21 67:4 117:3 153:24 ordinance 3:3 16:24 19:12,20 28:8 75:17 86:21,22 87:1,4 87:8,14 89:14,16 89:17 135:5,8 143:15 144:3 ordinances 19:15 143:6 146:22 original 4:22,22 4:23 134:18 originally 20:24 147:21 orlando 10:25 11:13 outdoor 144:6 144:12,18,23 145:3,4,18 outline 97:22 outlined 34:1 outside 128:12 oversight 69:14 71:15 82:5 owned 52:12 54:2 64:4 owner 107:12,20 108:14 111:2,13 owners 10:21 108:15,19,23 109:13,14,15,20 111:8 148:18 ownership 110:19,24
---	---	--	--

[owns - plan]

Page 24

owns 148:21	paragraph 26:18	particular 32:14	personally
p	44:13,14 47:9,18	parties 154:15	116:23
p 2:1,1 3:1	47:19 48:13	partner 47:22	persons 32:13
p.m. 1:15 95:13	49:8 50:1 65:16	passed 62:14	pertained
108:7 153:22	67:7,12 69:8	patterns 147:20	151:11
154:13	72:22 75:3 76:7	paul 41:4 96:4,8	peruses 7:25
page 2:14 3:2	77:21,22 78:17	97:11,16 112:21	26:20 55:3
4:2 7:18 20:14	81:16,24 84:23	113:4	62:22 65:23
20:14 21:22	84:23,25 87:8,14	pause 92:5	67:9 69:10
23:18,20 25:7,10	87:15,25 88:9	pdf 97:8	70:22 85:2
25:12,25,25	89:4,18,19 91:4	peacefully	87:11
26:14,15 32:3,10	102:5 106:3	110:12	phone 18:25
35:14,15,25 37:3	111:16,19,21	people 6:15	51:1 140:4
37:7 44:6,13	112:6,7 118:18	55:21 104:18	phrase 64:9
47:18,18 49:8	128:7,8 134:12	106:10,18	physical 23:17
51:9,22 52:3,11	134:24,25	122:25 123:20	52:13 54:6 64:5
55:13 56:5,12	143:12 150:2,23	percent 12:20	75:5 76:11
58:4,14,20,23	151:3 152:1	perfect 7:6	78:15 79:8 91:2
59:9 63:22,23,24	parentheses	performing 13:9	physically 81:3
64:2 72:20 76:7	114:17	15:18,23 92:13	118:12
78:13 84:5,8,10	parking 12:16	92:14	pinckney 2:7
84:11,21 87:15	12:17 92:19,20	perimeter	place 21:25
88:11 95:10,11	parks 18:18	130:10	24:25 60:18
95:18,20 96:3,21	135:19,21,22,25	period 14:1,19	67:23 87:2,5
97:4 99:4 100:4	136:6 137:13	104:4 119:13	120:19
107:8 108:10	part 12:15 22:19	permissible	placed 97:23
111:19 112:6	42:9,16,20 60:17	72:25	plaintiff 1:4 2:5
113:13,17	72:2 74:3 82:6	permit 145:17	plan 3:6 8:13
114:14 119:22	82:16 91:20	146:3,24 147:4	10:22 12:18,21
120:15 129:23	95:24 100:22	permits 134:14	12:23 13:19
130:3,7 132:15	110:1 112:15	permitted 87:22	14:12 17:8,13,15
134:7,11 135:3	125:17,20	143:15 144:5	18:1,13 19:4,6
142:22	126:19 135:17	person 15:16	20:6,19,25 21:19
pages 21:22	135:19 146:11	16:3 18:25	22:1,19,23,25
95:11	147:18,22	32:13,13 33:14	23:2,4,7,14,15
pain 115:3	148:17 153:14	33:19	26:10,14,15,25
	participate	personal 50:8	27:7,15,18,20,23
	45:14	154:8	27:24 28:7,22

[plan - potter13623]

Page 25

29:3,21 30:3,24 32:6,9,16 33:3 33:11,21 34:1,3 34:4,11,24 35:5 35:24 36:6 37:7 37:18,18 38:9,13 39:17 40:11,13 40:22 42:18 43:18 44:16,19 44:20 45:9,15,19 45:23 46:9,18 47:3,10 49:11,16 50:10 51:7,11 52:18 53:7 55:22,25 56:7 57:14,14,20,22 57:24 61:12 62:7 63:3,25 64:8,11 66:2,4 66:20,24 67:4,14 67:21,24 68:2,4 68:5,7,13 71:9 71:19,25 72:8,12 72:12,24 75:21 76:20 77:2,3 78:3,3,10,22 79:4,5,7 81:2,2,7 82:17 83:6,12,14 83:17,22,23,24 84:2,13,20 85:5 85:11,16,19 86:10,23 87:6,16 87:19,22,25 88:4 88:6,10,13 89:2 89:7 91:6,8,9,15 91:21,25 92:1,16 93:8,11,22 94:3 94:18 95:22	97:8,12,15 98:9 100:25 101:6,22 102:9 103:1,11 103:12,14 105:13,19,24 109:5,11 110:1,9 111:6,7,11,22 112:10,16 113:5 113:23 115:12 115:20 116:3,11 116:24 117:12 118:1,11 119:2 122:3 123:14,20 124:2,10,23 125:19,25 127:23 129:3 132:16 133:9 135:12,15 136:25 137:6,21 138:5,13,18 139:2,5,12 140:6 140:7,12,23 141:1,14,17,20 143:1 145:19 146:4,7,11,11,18 146:23,25 147:2 147:17,18 148:1 148:6,11 149:14 150:17 152:3,10 152:14,17 planned 41:10 planner 18:18 planning 10:3,7 10:8,9,10 12:22 18:18 19:14 21:3,7 28:13 37:20 45:17,24 67:21 85:9	107:18 112:8,19 135:19 141:18 plans 34:9 41:23 72:9 90:7 planted 54:4 play 57:11 60:19 81:7 played 74:13 120:3 149:3,10 playing 74:25 please 5:8 12:11 50:23 56:1 64:3 65:16 77:14 87:10 91:5 94:17 97:2 104:12,12 108:15 132:21 134:4,13 136:19 pli 31:15,20 point 28:9 62:1 111:10 112:20 114:19 population 22:14 portion 32:16 35:6 37:18 50:9 79:5 85:5 97:12 97:13 portions 32:6 116:2 position 8:7,24 possible 6:3 potential 21:15 21:18 22:4,6,12 23:17 34:4,6 46:5 100:24 122:11 130:4 151:6,11	potentially 17:10 64:16 83:20 112:24 118:7 129:3 potte11725 3:19 potter 1:10 2:15 5:2,18,22 7:20 8:6,9,21,24 9:2 9:11,19,24 11:5 11:18 12:3,4 13:21 14:2,25 15:7 16:2,16,21 17:3 29:11,13,13 29:16,19 31:18 34:16 35:15 55:25 56:6 67:21 82:17 92:15 93:15,17 113:14 128:12 130:5,21 131:9 131:14 133:19 134:20 potter08777 4:15 potter10469 4:12 potter10471 4:13 potter11270 4:7 potter11511 4:9 potter11523 3:9 potter11717 3:17 potter12553 4:14 potter13623 4:11
--	--	--	---

[potter8654 - providing]

Page 26

potter8654 3:22	presidents 43:6	19:2,14,19,25	22:4,6,12 44:22
potterlawson.c...	94:3 126:4,9,20	20:2 21:3,7,24	46:17 47:10,11
55:18	pretend 7:6	22:2 26:11	47:16 77:2
practice 12:1	previous 42:2	28:13,22 34:8,25	109:11 111:5,22
56:22 57:2	100:14 129:13	34:25 35:5	111:23 112:15
78:12,14 120:20	141:22 144:1	39:21 40:5,12,22	112:21 115:11
practices 52:13	previously 20:4	41:19 42:9	115:14 125:13
54:7 60:18 64:5	29:4 34:12 36:8	59:22 66:19	138:24 141:24
75:5,6 76:10	37:23 54:22,24	67:23 74:3	153:11,18
78:15 144:17	60:1,3 62:17,19	76:20 77:3	promises 57:9
145:4	65:6,9 66:8,10	80:23,25 83:16	proper 141:19
preceding 154:6	68:16,18 70:11	84:5,8,15 85:11	properly 70:19
predated 109:11	70:13 77:15	86:9 90:13,21	property 10:20
predolin 13:3	79:14 86:11,13	91:11,15 95:24	17:12 72:25
preliminary	89:21,23	110:17 112:16	107:20 141:1,17
29:9	primarily	117:2,5 118:1	proposal 98:22
preparation	125:14	134:1 135:18	propose 83:20
20:21 67:16	primary 15:22	139:17 141:2,18	90:7
prepare 8:10	125:8	142:2,10,15	proposed 33:9
prepared 8:4	principal 8:25	146:14	47:11 86:2,7
45:23 55:25	9:1 14:2,7,20	production	87:20 88:5,20
56:7 130:5	16:2,4 41:4	29:15	89:6,8 111:23
133:14,15,19	principally	profession 67:20	114:6 116:11
134:19	39:16	programs 61:1	143:3 152:12
preparing 21:11	printed 95:25	project 10:12	proposing
21:25 28:14	printing 95:21	13:8 15:1,1,13	112:15
39:16 49:10,15	prior 24:7 57:22	15:20,22 16:10	prospectively
prerequisite	probably 13:8	16:12 25:21	57:6
18:1 26:11	16:1 19:1 50:12	45:18,25 46:4	provide 13:2
presentations	53:2 117:10	52:6 84:14	37:22 41:20
43:7 119:2	147:17	90:17 91:3	131:7 147:25
presenting	procedures	92:12,25 93:3	provided 46:17
126:10	134:13	103:9 112:9,20	51:20 79:22
presently 57:5	proceeded	134:14	106:9 129:6
president 15:25	140:12	projects 9:4,9,24	130:14,18
48:14,20 49:5,24	proceedings 5:1	10:5,11 13:3	providing 10:2
100:14	process 9:9	14:13 15:7,11	19:21 125:4
	17:14 18:23	16:6,14 21:16,18	126:22

[public - refer]

Page 27

<p>public 19:20 37:15 42:13 154:5,24 purpose 26:15 35:1,4 71:9 117:13 purposes 20:11 54:21 146:22 pursue 46:17 pursuing 113:1 put 19:4 44:20 50:23 51:7 59:23 63:2 90:9 90:15 100:6 101:22 135:14 146:13 149:18 149:19,23 puts 114:17 putting 49:20 68:4 72:9 125:19</p>	<p>r</p> <p>r 2:1 3:1,1 4:1,18 5:10 154:1 range 14:16 ratio 47:16 reach 59:19 reaching 117:3 read 7:23 17:23 24:5 26:18 27:2 27:24 44:23 45:21 46:19 47:13,23 48:15 52:1,15 54:8 56:19 61:2 64:3 65:16 66:18 67:7 69:9 70:18 73:3 77:25 79:12 81:11,20 82:10 83:10 84:25 85:21,23 87:10 90:5,6,20 91:4 94:17 95:16 96:6 97:2 102:5 111:25 113:20 123:20 130:12 134:3,5 148:4 reading 18:13 90:12 107:16 124:9 128:10 reads 27:22 ready 94:18 really 16:13 110:10,23,24 119:13 139:18 149:22 reason 44:25 45:2 46:8 47:25</p>	<p>48:19 49:14 73:5 105:22 106:7,15 130:17 145:19 146:5 147:3 151:9 reasonable 123:13 153:10 recall 9:12,19 18:19,24 19:9 28:24 29:2,9 37:17,21 40:1 42:8,15 43:10,15 51:20 53:1 54:1 55:9,12 56:24 60:6 61:17,21,23 62:25 64:23 65:2,15 69:4 70:16 74:16 80:7 90:3,4 93:7 97:14 98:22 102:19 103:19 103:24,25 104:4 106:23 107:3 111:9 116:4 117:1,2,18,18 119:13 127:19 128:9 129:19 132:8 137:1 138:10,11,12,20 138:21 139:3,20 139:21,24 140:2 147:17 148:4 149:19 151:20 receive 145:17 received 121:11 receiving 90:3 recess 50:17 77:11 98:2</p>	<p>116:8 recognize 5:17 20:18 29:7,16 34:15 36:11 38:1 39:8 51:9 55:7 56:6,12 61:6 63:6 66:11 89:24 94:12,13 100:2,9 104:18 107:7 108:3 129:23 134:25 recollect 42:12 recollection 13:21 27:18 28:22 41:18 47:15 48:17 49:4,9,21 50:8 53:4 59:18 63:14 112:3 129:15 131:10 143:14,22 recommendati... 19:3 record 5:9 6:13 6:15 7:1 12:23 17:23 20:12 50:19,23 85:23 134:5 recorded 154:7 recording 6:4 recourse 142:6 142:14 recreational 54:6,13,15 75:16 144:7 reduced 154:7 refer 20:10 69:13</p>
<p>q</p> <p>quarters 35:25 question 6:17,20 6:23 7:2,5,9,10 23:3 55:4 56:22 96:13 99:16 103:12 119:24 120:8,9,12 141:11,15 147:16 151:2 questions 7:6 77:8 151:15 153:15 quick 6:1 38:7</p>			

[reference - retained]

Page 28

reference 37:4 59:9 62:6,13 86:6 143:23 referenced 147:11 151:10 references 35:16 36:21 38:4,22 59:2 referring 13:15 96:12 107:13 reflect 67:13 70:25 71:8 reflects 27:6 66:23 70:20 refresh 143:14 regarding 19:22 115:24 139:14 regime 19:13 register 111:12 registered 11:23 11:24 154:4 regularly 40:17 43:4 124:20 regulations 12:22 related 115:11 125:14 140:3 relates 36:6 relating 111:11 relations 37:15 relationship 10:5 13:22 115:15 135:22 135:24 136:10 136:11 137:2 146:12,18 relative 154:14 154:16	relayed 148:11 relied 44:15 rely 123:13 remain 34:2 53:15 150:6 remainder 148:1 remaining 47:11 111:22 remember 6:9 51:4 59:22 60:9 61:18 62:25 78:12 115:23 116:2 132:12 137:8,10 139:13 140:4 147:13 150:12 render 145:16 renovations 40:6 40:9 repeal 139:5,7 139:11 repealing 139:14 repeat 6:11 7:9 76:23 rephrase 7:11 replies 115:2 reply 121:11 replying 114:1 reported 1:16 reporter 6:3 50:21 153:24 154:5 represent 29:12 30:12 31:25 60:4 89:15 146:1 representation 52:7	representations 57:10 representative 1:10 2:15 5:2,20 28:15 79:23 representatives 36:22 39:8 42:12 104:19 124:5,8 139:11 representing 19:25 42:17 represents 31:17 request 27:14 requested 41:21 117:24 requests 4:19 required 17:8 18:14 22:24 23:11 27:7 67:21 72:10,11 requirement 18:1 147:25 152:10,13 requirements 27:1,8 89:1 requires 26:24 107:19 residence 29:2 131:5 residential 8:19 11:11 24:12 127:2 residents 13:6 resolution 140:10 respect 16:22 30:5 34:24 35:24 37:7	38:13,20 39:5 59:8 148:18 150:14 respond 100:17 114:8,24 responding 95:23 response 6:18,19 60:6,10 90:20 133:3 responsibilities 9:6 30:18 51:19 responsibility 14:8,21 16:6 30:6,24 32:12 34:25 35:7,21 36:20 38:17,24 39:5 42:17 104:16 responsible 32:14,15 33:2,14 33:19 105:8 rest 114:20 restrict 61:24 69:19 71:20 72:25 restrictive 73:14 restroom 7:14 result 110:16 resurface 90:14 90:22 resurfacing 90:7 90:23 retained 14:25 14:25 15:5,13 16:17 20:24 92:11,15
--	--	---	---

[retired - seal]

Page 29

retired 14:14 16:5 139:17 retires 14:20 review 8:11 9:8 27:19 30:1 32:22 38:7 40:14,20 41:14 41:23 50:6 76:21 77:4 90:15 91:7 94:20 125:5,18 reviewed 7:21 49:24 reviewing 40:21 45:15 rezone 17:11 23:4 66:21 67:4 rezoned 18:2 24:19 26:11 rezoning 13:19 23:12 24:2,25 25:1,21 26:5 right 5:12,13 7:4 7:18 9:15,18 21:22 23:24 26:12 27:8 29:17 31:8 36:6 36:7 37:2 44:11 51:16 56:16 58:3,20 59:1 60:16 63:22 64:2,22 67:5 111:4 114:17 121:24 122:25 123:5 133:2,13 133:19 134:19 135:10,14	rmr 1:16 road 147:19 148:13 role 21:2,11 28:21 30:17 31:2 32:20 37:15 40:1 41:19 48:25 66:23 roles 9:5 rooms 131:5 route 19:11 row 8:22 32:14 35:22 38:21 rude 6:12 rules 6:1 running 36:16 s s 2:1 3:1,1 4:1,18 4:18 5:10 s.c. 1:11 2:2 154:10 saa 31:24 sacred 1:2 sacrifice 76:1 safe 90:11 sarah 2:6 saw 34:19 149:8 saying 120:11 says 24:1 26:4 26:15 30:5 31:12,14,19,20 32:3,4,4 33:11 34:24,25 38:17 44:15 47:1 48:25 50:1 52:12 54:2	56:16 75:20 77:23 78:17 79:7 80:8 81:6,7 82:4 83:5 88:4 88:13,20,23 95:12 99:7 100:16 101:24 102:24 105:16 106:3 108:13 111:21 112:8 115:2 118:18 119:23 120:5,7 120:10,11 130:8 133:3 134:13 141:13 151:3 scale 52:9 scheduled 40:17 124:20 schemmel 4:5 28:21,25 48:8,13 48:20 55:24 59:20 60:16 121:11 149:9 schemmel's 60:6 60:10 61:4,10 school 1:2 10:24 10:25 11:8,10,11 13:9,11,16,17 15:8,15,17,19,25 16:17 21:3,5,6 21:16,16,17,17 22:3,4 28:16,23 30:18,22 33:1 35:10,10,10,16 36:21 37:5 39:7 39:21 40:2,3,3,6 40:8,13,14,15,15 41:10 42:10,11	42:13,25 45:24 47:12 48:14 49:6 50:2 52:13 54:3 56:21 57:11 59:19 60:23 61:6,23 62:5 64:4 65:3 74:7 79:23 82:25 92:11,13 92:20,24 93:19 93:19 96:10 97:16 98:10 99:11,21 108:24 108:25 111:24 112:14 113:22 114:6 115:11 116:10,22 117:7 118:9 124:21,22 125:14,20 127:20,24 128:17 130:9 132:3,4 138:13 139:10,10 148:19,20 150:24 151:4 school's 41:19 60:25 97:9 98:23 103:22 schools 60:24 93:21 110:10 125:9 schreiber 32:1 science 13:6 scott 63:10 94:15 94:18 100:14 105:17,23 seal 154:20
---	---	--	--

[seats - sir]

Page 30

seats 77:8 second 37:3 41:21 44:6 49:8 50:1 56:5,12 65:16 69:8 75:3 78:16 95:10 96:2 99:4 107:7 108:9 113:13,16 118:18 119:22 127:12 128:6,8 130:3 142:22 150:23 151:3 secondary 144:5 section 33:14,20 33:25 35:21 37:22 38:8 51:8 54:11,18 61:12 81:19 84:2,3,8 88:9 89:4,14,18 95:16 101:6,12 101:14 138:5,8 138:17 139:2 142:22,25 143:3 143:23 145:6 151:24 152:2,6 sections 32:21 58:9 104:21 105:8,9 see 12:12 26:16 30:6 31:15 33:12 35:16 36:21 37:8,9 38:14 48:9 49:2 49:12 50:4 56:3 56:16 58:24 59:1,9,13 68:19 69:14 73:21 75:7,18,23 76:13	78:20 84:7,12,23 86:1 88:1,3,7,11 88:13,16,20,23 95:5,11,14 96:2 96:22 98:5 100:19 101:2,24 102:3,24 104:14 105:16,20 106:5 108:15 112:7,12 113:17 114:14 114:22 115:8 118:18 120:7,21 123:21 130:7,11 132:20 133:1 134:11,15 151:3 seeing 35:8,15 149:13 seen 44:4,10 48:11 55:1 62:21 63:1 65:13 121:16,16 147:15,16 148:3 segment 53:1 83:14 send 40:12,13 96:21 sense 33:16 50:8 sent 41:13 69:2,4 94:21 95:24 98:14 sentence 24:8,18 26:23 27:6 47:1 47:19 50:1 75:3 77:22 78:16 79:7 80:19 81:6 81:13,22,23,23 82:4 83:5 112:7	sentiment 137:12 149:20 sentiments 70:20 separate 13:17 september 1:14 95:12 97:7 102:13 103:10 103:14,20,21 114:15 154:12 154:21 series 7:19 51:23 serrault 35:11 39:15 55:20 59:16,18 79:17 79:22 120:23 121:19 122:13 149:9 serrault's 60:7 60:13 served 5:17 125:8 services 10:2 set 154:19 seven 131:22 shakes 6:6 share 76:15 117:6 shared 117:9,11 117:19 124:2 128:11,17 shareholder 8:25 9:1 16:2 shares 148:21 sharing 124:12 show 35:3 114:5 125:19 showed 22:6 46:5 86:5	showing 11:19 shown 113:24 114:9 side 114:17 115:5 133:2,3,10 133:13 134:18 134:19 135:10 sided 20:8 sign 25:11,18,22 signature 23:20 107:19 154:22 signed 66:12 68:20 70:14 significant 50:9 significantly 135:20 signing 70:16 75:13,20 similar 34:3 83:17 85:8,19 86:1 sinsinawa 109:16,19 111:8 sir 5:17 8:17 17:25 20:6,17,24 21:21,24 23:18 34:15 38:1 39:14 47:18 59:15 60:3 61:4 61:9 62:19 63:21 64:9,18,24 65:8 66:1,11 67:12 70:13 75:3 141:15 142:12 143:14 144:11 145:2,11 150:10
---	---	--	---

[sister - submission]

Page 31

sister 47:21 63:9 105:17,22 sisters 109:16,19 110:19 111:8 site 10:13 34:1 54:2 56:16,16 68:3 81:4 99:7 sites 22:20 situation 142:13 six 131:22 sixth 33:10 size 97:10 114:10 slash 31:13 smoothly 6:2 soccer 60:19 74:17 121:16 solely 120:19 somebody 139:18 soon 7:16 sorry 18:7 23:23 31:7 32:15 33:7 35:22 42:11 59:4 65:21,22 71:6 80:21 85:21 97:21,22 103:20 112:6 115:2 136:20 152:6 sort 13:17 16:5 22:5 32:22 68:2 72:8 82:24 142:9 149:23 south 2:7 space 22:17 33:11,11,20 34:2 34:3,6,6 35:24	36:6 37:7,18 38:13 51:8,11 53:5,9,14,15,15 53:16,24 54:4,5 54:6,12,13,15,19 55:25 56:7 60:21,22,24 61:14,15,16 63:25 67:22 79:4 86:3,3 87:21,21 88:23 88:24 150:6,6 152:12,13 spaces 51:24 52:2,2 53:20 54:20 59:20 66:3 68:12 81:19 89:6 99:7 120:18 151:12 speak 126:5 139:4,9 speaking 12:3 42:22 53:4 84:3 126:15 146:21 specific 39:22 54:19 81:17 specifically 62:25 69:23 86:6 104:9 139:14,15 specificity 73:2 specify 78:18 speculation 103:6 119:7 122:21 124:16 126:17 128:20 143:18 147:6	spell 5:9 spend 79:9 118:19 spokesperson 125:8 sporting 102:8 102:25 103:22 sports 75:15 144:7,12,18,23 145:3,4 ss 35:11 154:2 st 1:16 154:4,24 stadium 75:16 stakeholders 10:20 stamp 20:14 25:14 29:12 standing 11:25 standpoint 28:8 stands 35:9 stapled 20:7 start 88:3 started 6:25 12:14 starting 10:24 starts 44:14 81:16 107:11 state 5:8 12:1 42:4 84:20 154:2,5,25 stated 119:16 statement 46:9 46:21 48:1 73:11 statements 45:3 137:17 140:2 states 1:1 51:19	statute 143:15 stay 122:12 stenographic 6:4 stipulation 148:5,12 stock 9:3 stories 113:23 storm 22:21 stouder 136:24 137:3 straightforward 136:4 strange 41:3 stream 13:4 60:5 92:11 street 1:12 2:3,7 122:25 147:19 154:11 strength 60:25 strictly 80:10 138:22 strike 24:25 27:23 31:13 33:17 35:22 93:10 string 3:8,18 4:10 strong 136:15 structures 23:17 stuck 142:14 students 30:14 30:15 studies 10:4 studying 112:20 subject 117:24 submission 111:6,11
--	---	---	---

[submissions - testifies]

Page 32

submissions 105:18,23 106:9 106:18 113:8 submit 27:23 94:19 95:22 107:17 113:4 submitted 21:8 25:18 27:13,25 44:8 93:10,11 94:23 103:13 116:11 submitting 23:9 111:1 subpoena 4:3 5:17 29:15 subsection 63:24 152:5 subsections 38:5 substance 17:19 22:24 substantially 85:19 succeeded 48:25 suggest 105:12 suite 1:12 2:3 8:22 154:11 summarize 21:24 summary 10:23 summer 60:25 summers 11:12 super 118:4 supervising 16:12 supervisory 16:6 supplied 128:4 support 28:2	sure 7:3,17 9:16 10:7 12:19 14:11,14 19:18 19:21 24:15 25:3 29:6 31:23 39:3 41:22 43:3 44:6 45:17 50:1 52:20 69:24 74:8 76:24 77:9 84:1 90:13,21 92:7 93:13 95:25 97:23 98:1 105:14 112:24 113:15 113:21 114:16 115:22 121:21 123:2,19 126:8 126:10 128:13 141:23 143:22 146:1 surrounding 10:20 susan 35:11 39:15 55:20 59:15,18,24 60:13 79:17,22 120:17,23 149:9 suspicious 52:22 sustainability 35:8,17 37:2 38:21,21 swap 100:5 switch 77:8 sworn 5:4 szylstra 2:9	t t 3:1 4:1,18 41:4 154:1,1 table 3:10,11,13 3:15 29:10,25 34:16 36:12,15 38:2 50:7 51:13 58:3 63:15 132:20 133:1 134:9 tag 70:14 138:9 138:23 139:1,4 140:3 take 7:14 11:24 14:20 20:17 24:8,25 25:9 44:13 50:15 51:6 52:11 58:9 60:18 70:18 77:10,14 78:13 86:14 97:24 111:15 120:19 131:7 142:19 143:12 taken 1:11 5:24 50:17 77:11 98:2 116:8 154:10 talk 8:4,7,11 9:22 14:18,19 117:16 138:4,7 139:6 talked 39:6 51:13 132:12 139:15 talking 6:15 147:13 152:21	talks 83:14 143:3 taller 115:5 tanner 2:7 tasked 51:14 taylor 37:8,11 37:13,17 38:17 39:15 51:15,20 63:11,15 64:16 104:23 106:4,7 106:15 team 52:13 54:7 60:22 64:5 75:5 76:10 78:14 teams 9:3 technically 108:14 146:21 tell 7:9 41:20 62:5,12 68:10,11 73:14 86:15 96:4 105:7 109:15 128:13 142:1 telling 61:24 72:13 91:12 tenure 50:2 term 64:25 terms 17:19 22:24 146:22,23 150:17 testified 5:5 77:18 99:5 112:2 119:22 126:25 131:9 134:17 testifies 47:9,19 48:13 75:4
---	--	---	---

[testify - turn]

Page 33

testify 5:22 73:19 99:19 125:23 129:6,9 129:12 testimony 5:18 26:9 42:2 140:25 141:13 141:16,22 142:12 144:1 145:11 text 17:19 thank 24:1 26:4 34:14 43:24 51:6 58:16 60:7 60:13 66:23 90:19 92:8 94:23 105:18 115:7 124:19 126:24 140:16 153:21 theater 13:5 thing 86:1 104:10 107:17 110:15 142:4 things 7:8 22:22 40:20 98:12 113:5 121:21 think 8:7 10:6 12:12,19 13:1,14 13:18 22:2,22 25:6 28:3,24 31:21 41:2,12 42:5 45:10 47:4 69:6 70:4 71:13 77:9 81:1 84:4,4 85:18,25 86:9 91:23 110:8 112:18 117:8	118:5 122:1,5,6 122:14 123:11 125:1 126:9 127:14,25 128:21,22 129:13 135:15 138:6,11 139:6 139:16 141:6 142:8 146:10 152:20 thinking 85:6 118:2 third 30:5 31:25 41:23 95:11 thought 8:14 45:19 46:10 85:14,14 90:10 112:10 122:7 135:14,17 139:7 thoughts 67:13 three 13:17 21:7 30:23 33:10 35:25 40:18,19 43:5,6 71:6,7 83:8 93:18,21 94:4,4,7 110:3 125:25 126:4,15 tim 18:17 135:19 135:21,22,25 136:6 137:13 time 6:15,22 7:4 12:15,24 14:1,7 14:13,19 15:1 16:6 19:20 21:15 26:10 45:23 68:4 70:1 72:22 74:13 75:13 79:9 83:7	83:13 87:1,5 101:8 108:6,10 113:1,2 115:18 116:5 117:25 118:2,19 119:13 120:14 121:9 122:6 139:18 149:21,23 times 6:11 title 9:19 25:10 titled 104:15 today 5:12,18,21 7:4,13 8:3,10 26:9 44:10 79:15 131:15 140:25 141:16 142:12 149:9,13 today's 20:11 told 72:2 73:13 tomorrow 90:8 top 21:22 60:7 65:9 95:5 98:5 100:6 107:7 108:3 topics 7:19 8:3,8 32:23 town 129:14 track 29:20 30:2 60:23 90:8 100:24 105:11 133:25 traffic 22:14 32:2 147:20 transcript 4:22 4:23 5:1 153:24 trees 54:4 trial 23:8	trigger 91:9,14 triggered 92:1 true 78:22 79:25 81:13 try 6:2,18 22:11 23:16 129:3 trying 23:4 42:12 78:12 82:22 100:23 117:1 127:19 129:4 130:13 139:13 140:8 152:20 tucker 18:17 44:15 65:13 69:23 90:17 136:8,10,12,15 136:22 137:13 138:4 145:12,16 146:1,2,6,23 tucker's 65:17 117:21 127:22 137:21 138:8,17 140:22 turn 21:21 23:18 26:14 72:20 79:14 83:3 84:21 87:25 88:10 95:10 97:21 98:18 99:3 104:12 106:3 108:8 111:15,18 112:6 113:13 118:14 119:20 120:15 127:11 132:15 134:7 151:20 152:1,1,5
---	--	--	--

[turning - vs]

Page 34

turning 108:13 114:14 two 6:15 11:1,15 32:23 33:10 41:14 45:3 58:9 68:24 94:20 95:11 96:1 110:9 113:23 115:6 132:20 type 10:17 22:16 78:18,23 91:15 99:20 types 10:11 39:22 40:8 43:7 54:18 83:22 112:21 typical 142:13 typically 40:22 123:1	understanding 5:21 10:15 12:4 15:24 17:25 18:9,10 24:20 25:20 26:10 27:6,22 30:23 32:11 44:20 53:8 54:12 57:7 57:25 58:5,21 61:9 64:13,18 67:3 71:8,25 72:7 76:15 89:5 89:17 99:10,16 100:23 101:3,5 102:11,12 104:25 110:16 113:22 115:10 118:25 126:24 127:8,23 136:16 140:8 144:11 147:1,2,23 understood 37:4 41:22 75:14 76:10 98:15 undertake 112:19 undertaking 45:18 112:9 united 1:1 university 8:22 11:4 unresolved 100:17,21 update 83:21 updated 17:6 68:8 updating 66:19 66:24 84:13	usage 73:20,24 use 7:14 24:3,9 24:11 26:6 53:21 57:1 59:20 60:24 61:10,11 67:22 71:1 74:7 75:4 75:15 77:23 78:9,18,23 83:25 86:2,7 87:20 89:7,8 91:10,15 97:18 102:8,24 103:21 116:13 116:24 117:14 118:10,20 119:10 120:18 120:23 122:15 127:21 129:4 132:11 143:4 145:2,5 149:15 uses 54:20,20 61:15 64:6,10,14 66:3 68:3,6,8,12 69:14,19 70:20 71:14,20 72:25 76:1 78:4 79:3,4 79:10,18 80:1,6 80:9,23 81:17 82:5,7,19,23 83:2,22 86:3 87:21 88:17,21 88:24 89:6 130:8 143:7,16 143:20,20,23 144:5 150:24 151:4,9,10,21 152:7,9,13,18,24 153:1	v v 3:1 vague 64:25 86:25 93:12 101:7 105:3 115:13 130:16 131:16 136:18 vandewalle 118:6 128:18 variance 142:7 variety 19:1 various 148:22 varsity 60:21 vein 140:6 verbally 6:9 verify 59:20 120:18,23 121:19 122:13 134:8 version 34:19 36:1,12 38:2 56:10 89:16 95:21 128:2 versus 31:20 54:11 91:2 123:21 141:9 143:20 vicky 1:16 154:4 154:24 viewed 126:14 views 139:1 vilas 137:10 visual 13:4 voluntary 19:7 127:8 vs 1:5
u			
u 3:1 4:18 5:10 5:10 41:4 55:16 uh 6:7 uhs 6:7 um 13:13 59:17 105:21 unaware 123:8 understand 7:5 7:8,11 21:2 28:15 40:8 41:9 41:18 42:21,23 89:1 94:2 98:8 108:18 109:18 110:22 123:14 124:8,12 126:3 128:25 130:13			

[w - wrote]

Page 35

w	wisconsin 1:1,6	104:9 105:5,11	141:24 153:11
w 4:1	1:13 2:3,8 8:20	106:1,12,20,22	worked 9:12
wait 101:15	8:23 12:1 154:2	107:16 109:23	11:11,12,15,16
want 6:23 28:8	154:6,11,20,25	112:18 115:15	13:1,18 39:16
62:6,14 77:8	witness 2:14 5:3	115:22 116:17	55:21 111:5
90:19 97:24	7:25 8:1 12:8	117:16 119:8	131:14 138:23
113:21 115:3	16:19 17:1 19:9	120:5 121:2,8,24	working 12:4
120:13 132:5	19:18 21:5,14	122:5,22 123:11	13:22 16:9 24:2
153:18	24:11,23 25:3	123:18 124:17	26:4 29:1 37:17
wanted 12:16,17	26:20,21 27:4,17	125:11,17 126:8	39:21 40:4 53:7
20:6 21:18 32:7	28:2,19 30:14,21	126:18 127:6	53:23 80:25
32:8,22 59:23	32:19 36:18,25	128:21 129:2,19	86:23 87:6
98:25 99:11	37:13 39:1,24	130:17 134:22	95:23 96:10
110:5 115:10	41:2 43:3 45:6	135:5 136:20	103:9,13 107:11
117:22 129:5	45:13 46:3,14,24	137:25 139:24	109:4,11 118:5,6
138:15 148:2	48:4,23 49:19	141:5,23 143:10	135:22,24 137:2
washburn 54:5	50:12 51:18	143:19 144:15	152:16
water 22:21	52:20,24 53:13	144:20,25 145:9	worries 132:22
way 15:11 35:25	54:17 55:3,4	145:23 146:10	write 25:25
69:18,21 74:22	56:10 58:17	147:8 148:25	32:21 35:4,5
105:11,14	59:6,13 61:21	149:17 150:5,20	53:1 83:1
106:24 110:12	62:22 63:19	152:20 153:7	127:22,25
119:11 122:12	65:23,24 66:7	154:19	writes 47:9 49:9
133:22 141:25	67:9,10,18 68:2	wmc 1:5	55:24 76:7
we've 20:6 95:22	69:10,11 70:4,22	wondering	114:15 120:17
119:11	70:23 71:12	131:6	writing 82:17,20
wednesday	72:4 73:10,17	word 9:23,23	83:17 154:7
65:20	74:1 76:5,23	words 47:1	written 18:11
week 94:20	77:6 78:7 79:2	work 11:17	32:9 49:23
went 10:25 11:1	80:3,14 82:1,14	14:11 16:22	85:18 106:23
17:14 22:8	84:12 85:2,3,8	29:20 37:19,20	107:2
34:11 40:15	85:25 87:11,12	83:21 92:11,15	wrong 7:10
64:19 84:14	89:13,20 92:7	105:12 131:10	wrote 23:22,23
west 74:22	93:7,13,25 95:18	131:23 132:4,5	52:24 60:17
western 1:1	96:25 98:1	132:14,14	67:12 85:14,16
whereof 154:19	99:15,24 100:5	135:18 136:6,8	95:14 106:8,16
willing 76:1	101:9,21 102:16	136:24 137:5,5,8	117:23
	103:2,7,24 104:7	138:13,14	

[x - zylstra]

Page 36

x	zylstra 2:6 77:9 100:5
x 2:13 3:1 4:1	
y	
y 3:1 4:1 yeah 10:6 24:15 41:15 55:7 80:14 84:12 93:13 99:15 101:11 112:18 116:7 122:22 132:3,3 151:3 year 11:16 137:9 years 9:12,13 11:1,3,6,15,25 131:21,22 younger 9:8 yup 37:3 59:17 80:7 82:11,14 83:4 120:9,16,22 130:13	
z	
zoned 24:9 26:24 75:14 127:1,1 zoning 3:3 12:21 12:23 16:23 17:5,6,6,11,12 17:16,21 18:11 18:17 19:19,22 23:5 24:4,7,12 24:19 25:11 26:6 27:1,8 66:22 69:23 75:16 86:18,20 86:21 89:14 111:1 127:9 129:16 135:5,8 136:16 153:13	

Wisconsin Rules of Civil Procedure
Chapter 804, Depositions and Discovery
Section 804.05

(6) Submission to Deponent; Changes; Signing.

If requested by the deponent or any party, when the testimony is fully transcribed the deposition shall be submitted to the deponent for examination and shall be read to or by the deponent. Any changes in form or substance which the deponent desires to make shall be entered upon the deposition by the officer with a statement of the reasons given by the deponent for making them. The deposition shall then be signed by the deponent, unless the parties by stipulation waive the signing or the witness is ill or cannot be found or refuses to sign. If the deposition is not signed by the deponent within 30 days after its submission to the deponent, the officer shall sign it and state on the record the fact of the waiver or of the illness or absence of the deponent or the fact of the refusal or failure to sign together with the reason, if any, given therefor; and the deposition may then be used as fully as though signed unless on a motion to suppress under s. 804.07 (3) (d) the court holds

that the reasons given for the refusal or failure to sign require rejection of the deposition in whole or in part.

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Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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